

AMENDED IN ASSEMBLY MARCH 28, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2303

**Introduced by Committee on Judiciary (Jones (Chair), Evans,
Laird, Levine, Lieber, and Montanez)**

February 22, 2006

An act to amend ~~Section 52.2~~ 6450 of the Business and Professions Code, to amend Section 2982 of the Civil Code, to amend Sections 527.9, 1276, 1277, 1278, 1278.5, and 1279.5 of, and to amend and repeal Section 209 of, the Code of Civil Procedure, to amend Section 5220 of the Corporations Code, to amend Sections 2103, 2104, 2106, and 2107 of, and to add and repeal Sections 3150.2 and 3150.4 of, the Family Code, to amend Sections 12585, 12599, 12599.1, ~~and 12599.2~~ 12599.2, and 31000.6 of the Government Code, to amend Section 959.1 of the Penal Code, and to amend ~~Section~~ Sections 366.3 and 15657.03 of the Welfare and Institutions Code, relating to the judiciary.

LEGISLATIVE COUNSEL'S DIGEST

AB 2303, as amended, Committee on Judiciary. Judiciary: omnibus bill.

~~(1) The Small Claims Act provides that the jurisdiction of the small claims court includes actions brought by a natural person, if the amount of the demand does not exceed \$7,500, with specified exceptions. Existing law limits the jurisdiction of the small claims court in specified actions in which the demand does not exceed \$5,000, including actions for specified acts of discrimination, boycotting, or blacklisting, or the refusal to buy or sell to a person, actions for violence, threat of violence, or intimidation based on~~

~~specified characteristics of a person, actions for denial or interference with the right of access of a disabled person to specified public accommodations, and other related civil rights actions, as specified.~~

~~This bill would permit these actions to be brought in small claims court if the amount of damages demanded does not exceed the jurisdiction of the small claims court for that person pursuant to the Small Claims Act.~~

~~(2) Existing law requires a person subject to a temporary restraining order or injunction issued pursuant to specified provisions to relinquish any firearm in his or her immediate possession or control, within 24 hours of the order, to local law enforcement or by sale to a licensed gun dealer. If the respondent is not present at the hearing, existing law allows for that relinquishment or sale within a 48-hour period.~~

~~This bill would delete that latter provision, and instead would require all relinquishments or sales to occur within 24 hours of the respondent being served with the order.~~

~~(1) Existing law requires all paralegals, as defined, to certify completion every 3 years of 4 hours of mandatory continuing legal education in legal ethics.~~

~~This bill would instead require all paralegals who are certified on or after January 1, 2007, to certify completion every 2 years of 4 hours of mandatory continuing legal education in legal ethics.~~

~~(2) The Car Buyer's Bill of Rights requires a conditional sale contract for a motor vehicle to include a specified notice to inform the buyer of a used vehicle with a purchase price of less than \$40,000 of his or her right to obtain a contract cancellation option agreement. Existing law excepts specified vehicles from that contract cancellation option requirement, including motorcycles and recreational vehicles.~~

~~This bill would require the notice provisions in a conditional sale contract to provide that a recreational vehicle is excepted from that contract cancellation option requirement.~~

~~(3) Under existing law, a prospective trial juror who has been summoned for jury service and fails to attend as directed or respond to the court may be compelled to attend, as specified. In addition, after an order to show cause hearing, the court may find the prospective juror in contempt of court, which is punishable by fine, incarceration, or both. Until January 1, 2007, existing law permits the court, in lieu of imposing penalties for contempt, to impose reasonable monetary sanctions of no more than \$250 for a first violation, \$750~~

for a 2nd violation, and \$1,500 for the 3rd and any subsequent violation, upon a prospective juror who has failed to respond and who has not been excused, after first providing the prospective juror with notice and an opportunity to be heard, as specified.

This bill would delete that date, thereby extending those provisions indefinitely, and would also delete a related, obsolete provision.

(4) Existing law sets forth the procedures for a change of name, including requiring an application for a name change to be made to the superior court of the county where the person whose name is proposed to be changed resides, by petition signed by the person, or if the person is under 18 years of age, signed by one of the person's parents, if living, or if both parents are dead, then by the guardian of the person.

This bill would revise and recast these provisions to, among other things, modify the procedures for persons objecting to a name change and notice thereto, as specified.

~~(4)–~~

(5) *The Nonprofit Public Benefit Corporation Law prohibits a director of a nonprofit public benefit corporation from being elected for terms greater than 3 years, as fixed in the articles or bylaws.*

This bill would instead allow those directors to be elected for terms no greater than 4 years, as fixed in the articles or bylaws.

(6) Existing law requires each party to a proceeding for dissolution of marriage to serve on the other party specified financial disclosure statements. Existing law authorizes a complying party to elect to take one or both of specified actions with respect to a noncomplying party.

This bill would make the first provision described above applicable to a party who has appeared in, rather than a party to, that proceeding. The bill would also expand the actions a complying party may take with respect to a noncomplying party to include filing a motion showing good cause for the court to grant the noncomplying party's voluntary waiver of the receipt of the complying party's disclosure.

(7) Existing law authorizes the court to appoint private counsel to represent the interests of a child in a custody or visitation proceeding.

On or before January 1, 2008, and until January 1, 2012, this bill would require the court to create a panel of attorneys for appointment in the above-referenced proceedings, who would be required to meet specified qualifications and report annually to the court in that regard. The bill would allow the court to appoint a non-panel attorney

in those proceedings only under special circumstances, as specified. The bill would authorize the Judicial Council to report to the Legislature on or before June 30, 2011, with regard to the number of those attorneys removed for cause or disciplinary reasons, as specified. The bill would also create new procedures with regard to allowing a parent or party to a proceeding to terminate the appointment of, or to resolve a complaint against, appointed counsel, and would provide appointed counsel with specified quasi-judicial immunity during the course of his or her representation of a minor child.

(8) Existing law requires a charitable organization, unincorporated association, or a trustee holding property for charitable purposes to register its articles of incorporation with the Attorney General's Registry of Charitable Trusts within 30 days of receiving the property.

This bill would instead require these entities to file an initial registration form with the Attorney General, and would require the Attorney General to adopt rules and regulations as to the contents of that form and related procedures. The bill would make other procedural changes relating to the means of payment of the annual registration or renewal fee by other entities required to register with the Attorney General's Registry of Charitable Trusts.

~~(5)–~~

(9) *Existing law provides a specified procedure that requires the county board of supervisors, upon the request of the county assessor or sheriff, to contract with and employ legal counsel to assist the assessor or sheriff in the performance of his or her duties in any case where the county counsel or the district attorney would have a conflict of interest in representing the assessor or sheriff, as defined.*

This bill would revise this procedure and extend those provisions to requests made by an assessor or sheriff after he or she leaves office, under specified circumstances.

By imposing new duties on a county, this bill would impose a state-mandated local program.

(10) Existing law allows a criminal prosecution to be commenced by filing an accusatory pleading in electronic form with the magistrate, or in a court having authority to receive it, under specified conditions. Existing law also authorizes a court to receive and file a notice of parking violation or a notice to appear in electronic form under certain conditions.

This bill would revise and recast those conditions for the receipt and filing of an accusatory pleading or a notice to appear in electronic form.

~~(6)–~~

(11) Existing law requires the juvenile court to conduct periodic status review hearings every 6 months, and, in certain cases, to terminate the parental rights to, and to order a permanent plan of adoption or legal guardianship for, a dependent child of the juvenile court.

This bill would allow the court to conduct those status review hearings at any time earlier than 6 months, if in the best interest of the child.

(12) Existing law provides for emergency protective orders with respect to elder abuse, as specified. For those purposes, existing law requires the respondent to be personally served at least two days before the hearing on the protective order.

This bill would instead require at least five days service before that hearing.

~~(7)–~~

(13) The Administrative Office of the Courts administers various court-related programs.

This bill would require the Administrative Office of the Courts to expend all funds allocated for services to assist self-represented litigants in proportion to the number of self-represented parties in each county.

(14) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 52.2 of the Civil Code is amended to~~
2 ~~read:~~

1 ~~52.2.— An action pursuant to Section 52 or 54.3 may be~~
2 ~~brought in any court of competent jurisdiction. A “court of~~
3 ~~competent jurisdiction” shall include small claims court if the~~
4 ~~amount of the damages sought in the action does not exceed the~~
5 ~~jurisdiction of the small claims court for that person.~~

6 ~~SEC. 2.— Section 527.9 of the Code of Civil Procedure is~~
7 ~~amended to read:~~

8 ~~527.9.— (a) A person subject to a temporary restraining order~~
9 ~~or injunction issued pursuant to Section 527.6 or 527.8 of the~~
10 ~~Code of Civil Procedure, or subject to a restraining order issued~~
11 ~~pursuant to Section 136.2 of the Penal Code, or Section 15657.03~~
12 ~~of the Welfare and Institutions Code, shall relinquish the firearm~~
13 ~~pursuant to this section.~~

14 ~~(b) Upon issuance of a protective order described in~~
15 ~~subdivision (a), the court shall order the person to relinquish any~~
16 ~~firearm in that person’s immediate possession or control, or~~
17 ~~subject to that person’s immediate possession or control, within~~
18 ~~24 hours of being served with the order, either by surrendering~~
19 ~~the firearm to the control of local law enforcement officials, or~~
20 ~~by selling the firearm to a licensed gun dealer, as specified in~~
21 ~~Section 12071 of the Penal Code. A person ordered to relinquish~~
22 ~~any firearm pursuant to this subdivision shall file with the court a~~
23 ~~receipt showing the firearm was surrendered to the local law~~
24 ~~enforcement agency or sold to a licensed gun dealer within 72~~
25 ~~hours after receiving the order. In the event that it is necessary to~~
26 ~~continue the date of any hearing due to a request for a~~
27 ~~relinquishment order pursuant to this section, the court shall~~
28 ~~ensure that all applicable protective orders described in Section~~
29 ~~6218 of the Family Code remain in effect or bifurcate the issues~~
30 ~~and grant the permanent restraining order pending the date of the~~
31 ~~hearing.~~

32 ~~(c) A local law enforcement agency may charge the person~~
33 ~~subject to the order or injunction a fee for the storage of any~~
34 ~~firearm relinquished pursuant to this section. The fee shall not~~
35 ~~exceed the actual cost incurred by the local law enforcement~~
36 ~~agency for the storage of the firearm. For purposes of this~~
37 ~~subdivision, “actual cost” means expenses directly related to~~
38 ~~taking possession of a firearm, storing the firearm, and~~
39 ~~surrendering possession of the firearm to a licensed dealer as~~

1 defined in Section 12071 of the Penal Code or to the person
2 relinquishing the firearm.

3 (d) The restraining order requiring a person to relinquish a
4 firearm pursuant to subdivision (b) shall state on its face that the
5 respondent is prohibited from owning, possessing, purchasing, or
6 receiving a firearm while the protective order is in effect and that
7 the firearm shall be relinquished to the local law enforcement
8 agency for that jurisdiction or sold to a licensed gun dealer, and
9 that proof of surrender or sale shall be filed with the court within
10 a specified period of receipt of the order. The order shall also
11 state on its face the expiration date for relinquishment. Nothing
12 in this section shall limit a respondent's right under existing law
13 to petition the court at a later date for modification of the order.

14 (e) The restraining order requiring a person to relinquish a
15 firearm pursuant to subdivision (b) shall prohibit the person from
16 possessing or controlling any firearm for the duration of the
17 order. At the expiration of the order, the local law enforcement
18 agency shall return possession of any surrendered firearm to the
19 respondent, within five days after the expiration of the
20 relinquishment order, unless the local law enforcement agency
21 determines that (1) the firearm has been stolen, (2) the
22 respondent is prohibited from possessing a firearm because the
23 respondent is in any prohibited class for the possession of
24 firearms, as defined in Sections 12021 and 12021.1 of the Penal
25 Code and Sections 8100 and 8103 of the Welfare and Institutions
26 Code, or (3) another successive restraining order is used against
27 the respondent under this section. If the local law enforcement
28 agency determines that the respondent is the legal owner of any
29 firearm deposited with the local law enforcement agency and is
30 prohibited from possessing any firearm, the respondent shall be
31 entitled to sell or transfer the firearm to a licensed dealer as
32 defined in Section 12071 of the Penal Code. If the firearm has
33 been stolen, the firearm shall be restored to the lawful owner
34 upon his or her identification of the firearm and proof of
35 ownership.

36 (f) The court may, as part of the relinquishment order, grant an
37 exemption from the relinquishment requirements of this section
38 for a particular firearm if the respondent can show that a
39 particular firearm is necessary as a condition of continued
40 employment and that the current employer is unable to reassign

1 the respondent to another position where a firearm is
2 unnecessary. If an exemption is granted pursuant to this
3 subdivision, the order shall provide that the firearm shall be in
4 the physical possession of the respondent only during scheduled
5 work hours and during travel to and from his or her place of
6 employment. In any case involving a peace officer who as a
7 condition of employment and whose personal safety depends on
8 the ability to carry a firearm, a court may allow the peace officer
9 to continue to carry a firearm, either on duty or off duty, if the
10 court finds by a preponderance of the evidence that the officer
11 does not pose a threat of harm. Prior to making this finding, the
12 court shall require a mandatory psychological evaluation of the
13 peace officer and may require the peace officer to enter into
14 counseling or other remedial treatment program to deal with any
15 propensity for domestic violence.

16 (g) During the period of the relinquishment order, a
17 respondent is entitled to make one sale of all firearms that are in
18 the possession of a local law enforcement agency pursuant to this
19 section. A licensed gun dealer, who presents a local law
20 enforcement agency with a bill of sale indicating that all firearms
21 owned by the respondent that are in the possession of the local
22 law enforcement agency have been sold by the respondent to the
23 licensed gun dealer, shall be given possession of those firearms,
24 at the location where a respondent's firearms are stored, within
25 five days of presenting the local law enforcement agency with a
26 bill of sale.

27 *SECTION 1. Section 6450 of the Business and Professions*
28 *Code is amended to read:*

29 6450. (a) "Paralegal" means a person who holds himself or
30 herself out to be a paralegal, who is qualified by education,
31 training, or work experience, who either contracts with or is
32 employed by an attorney, law firm, corporation, governmental
33 agency, or other entity, and who performs substantial legal work
34 under the direction and supervision of an active member of the
35 State Bar of California, as defined in Section 6060, or an attorney
36 practicing law in the federal courts of this state, that has been
37 specifically delegated by the attorney to him or her. Tasks
38 performed by a paralegal include, but are not limited to, case
39 planning, development, and management; legal research;
40 interviewing clients; fact gathering and retrieving information;

1 drafting and analyzing legal documents; collecting, compiling,
2 and utilizing technical information to make an independent
3 decision and recommendation to the supervising attorney; and
4 representing clients before a state or federal administrative
5 agency if that representation is permitted by statute, court rule, or
6 administrative rule or regulation.

7 (b) Notwithstanding subdivision (a), a paralegal shall not do
8 the following:

9 (1) Provide legal advice.

10 (2) Represent a client in court.

11 (3) Select, explain, draft, or recommend the use of any legal
12 document to or for any person other than the attorney who directs
13 and supervises the paralegal.

14 (4) Act as a runner or capper, as defined in Sections 6151 and
15 6152.

16 (5) Engage in conduct that constitutes the unlawful practice of
17 law.

18 (6) Contract with, or be employed by, a natural person other
19 than an attorney to perform paralegal services.

20 (7) In connection with providing paralegal services, induce a
21 person to make an investment, purchase a financial product or
22 service, or enter a transaction from which income or profit, or
23 both, purportedly may be derived.

24 (8) Establish the fees to charge a client for the services the
25 paralegal performs, which shall be established by the attorney
26 who supervises the paralegal's work. This paragraph does not
27 apply to fees charged by a paralegal in a contract to provide
28 paralegal services to an attorney, law firm, corporation,
29 governmental agency, or other entity as provided in subdivision
30 (a).

31 (c) A paralegal shall possess at least one of the following:

32 (1) A certificate of completion of a paralegal program
33 approved by the American Bar Association.

34 (2) A certificate of completion of a paralegal program at, or a
35 degree from, a postsecondary institution that requires the
36 successful completion of a minimum of 24 semester, or
37 equivalent, units in law-related courses and that has been
38 accredited by a national or regional accrediting organization or
39 approved by the Bureau for Private Postsecondary and
40 Vocational Education.

1 (3) A baccalaureate degree or an advanced degree in any
2 subject, a minimum of one year of law-related experience under
3 the supervision of an attorney who has been an active member of
4 the State Bar of California for at least the preceding three years
5 or who has practiced in the federal courts of this state for at least
6 the preceding three years, and a written declaration from this
7 attorney stating that the person is qualified to perform paralegal
8 tasks.

9 (4) A high school diploma or general equivalency diploma, a
10 minimum of three years of law-related experience under the
11 supervision of an attorney who has been an active member of the
12 State Bar of California for at least the preceding three years or
13 who has practiced in the federal courts of this state for at least the
14 preceding three years, and a written declaration from this
15 attorney stating that the person is qualified to perform paralegal
16 tasks. This experience and training shall be completed no later
17 than December 31, 2003.

18 (d) All paralegals *who are certified on or before December 31,*
19 *2006,* shall be required to certify completion every three years of
20 four hours of mandatory continuing legal education in legal
21 ethics. *All paralegals who are certified on or after January 1,*
22 *2007, shall be required to certify completion every two years of*
23 *four hours of mandatory continuing legal education in legal*
24 *ethics.* All continuing legal education courses shall meet the
25 requirements of Section 6070. Every two years, all paralegals
26 shall be required to certify completion of four hours of
27 mandatory continuing education in either general law or in a
28 specialized area of law. Certification of these continuing
29 education requirements shall be made with the paralegal's
30 supervising attorney. The paralegal shall be responsible for
31 keeping a record of the paralegal's certifications.

32 (e) A paralegal does not include a nonlawyer who provides
33 legal services directly to members of the public, or a legal
34 document assistant or unlawful detainer assistant as defined in
35 Section 6400, unless the person is a person described in
36 subdivision (a).

37 (f) This section shall become operative on January 1, 2004.

38 SEC. 2. *Section 2982 of the Civil Code, as amended by*
39 *Section 3 of Chapter 128 of the Statutes of 2005, is amended to*
40 *read:*

1 2982. A conditional sale contract subject to this chapter shall
2 contain the disclosures required by Regulation Z, whether or not
3 Regulation Z applies to the transaction. In addition, to the extent
4 applicable, the contract shall contain the other disclosures and
5 notices required by, and shall satisfy the requirements and
6 limitations of, this section. The disclosures required by
7 subdivision (a) may be itemized or subtotaled to a greater extent
8 than as required by that subdivision and shall be made together
9 and in the sequence set forth in that subdivision. All other
10 disclosures and notices may appear in the contract in any location
11 or sequence and may be combined or interspersed with other
12 provisions of the contract.

13 (a) The contract shall contain the following disclosures, as
14 applicable, which shall be labeled “itemization of the amount
15 financed:”

16 (1) (A) The cash price, exclusive of document preparation
17 fees, business partnership automation fees, taxes imposed on the
18 sale, pollution control certification fees, prior credit or lease
19 balance on property being traded in, the amount charged for a
20 service contract, the amount charged for a theft deterrent system,
21 the amount charged for a surface protection product, the amount
22 charged for an optional debt cancellation agreement, and the
23 amount charged for a contract cancellation option agreement.

24 (B) The fee to be retained by the seller for document
25 preparation.

26 (C) The fee charged by the seller for certifying that the motor
27 vehicle complies with applicable pollution control requirements.

28 (D) A charge for a theft deterrent device.

29 (E) A charge for a surface protection product.

30 (F) Taxes imposed on the sale.

31 (G) The amount of any optional business partnership
32 automation fee to register or transfer the vehicle, which shall be
33 labeled “Optional DMV Electronic Filing Fee.”

34 (H) The amount charged for a service contract.

35 (I) The prior credit or lease balance remaining on property
36 being traded in, as required by paragraph (6). The disclosure
37 required by this subparagraph shall be labeled “prior credit or
38 lease balance (see downpayment and trade-in calculation).”

39 (J) Any charge for an optional debt cancellation agreement.

1 (K) Any charge for a used vehicle contract cancellation option
2 agreement.

3 (L) The total cash price, which is the sum of subparagraphs
4 (A) to (K), inclusive.

5 (M) The disclosures described in subparagraphs (D), (E), and
6 (K) are not required on contracts involving the sale of a
7 motorcycle, as defined in Section 400 of the Vehicle Code, or on
8 contracts involving the sale of an off-highway motor vehicle that
9 is subject to identification under Section 38010 of the Vehicle
10 Code, and the amounts of those charges, if any, are not required
11 to be reflected in the total price under subparagraph (L).

12 (2) Amounts paid to public officials for the following:

13 (A) Vehicle license fees.

14 (B) Registration, transfer, and titling fees.

15 (C) California tire fees imposed pursuant to Section 42885 of
16 the Public Resources Code.

17 (3) The aggregate amount of premiums agreed, upon
18 execution of the contract, to be paid for policies of insurance
19 included in the contract, excluding the amount of any insurance
20 premium included in the finance charge.

21 (4) The amount of the state fee for issuance of a certificate of
22 compliance, noncompliance, exemption, or waiver pursuant to
23 any applicable pollution control statute.

24 (5) A subtotal representing the sum of the foregoing items.

25 (6) The amount of the buyer's downpayment itemized to show
26 the following:

27 (A) The agreed value of the property being traded in.

28 (B) The prior credit or lease balance, if any, owing on the
29 property being traded in.

30 (C) The net agreed value of the property being traded in,
31 which is the difference between the amounts disclosed in
32 subparagraphs (A) and (B). If the prior credit or lease balance of
33 the property being traded in exceeds the agreed value of the
34 property, a negative number shall be stated.

35 (D) The amount of any portion of the downpayment to be
36 deferred until not later than the due date of the second regularly
37 scheduled installment under the contract and that is not subject to
38 a finance charge.

39 (E) The amount of any manufacturer's rebate applied or to be
40 applied to the downpayment.

1 (F) The remaining amount paid or to be paid by the buyer as a
2 downpayment.

3 (G) The total downpayment. If the sum of subparagraphs (C)
4 to (F), inclusive, is zero or more, that sum shall be stated as the
5 total downpayment and no amount shall be stated as the prior
6 credit or lease balance under subparagraph (I) of paragraph (1). If
7 the sum of subparagraphs (C) to (F), inclusive, is less than zero,
8 then that sum, expressed as a positive number, shall be stated as
9 the prior credit or lease balance under subparagraph (I) of
10 paragraph (1), and zero shall be stated as the total downpayment.
11 The disclosure required by this subparagraph shall be labeled
12 “total downpayment” and shall contain a descriptor indicating
13 that if the total downpayment is a negative number, a zero shall
14 be disclosed as the total downpayment and a reference made that
15 the remainder shall be included in the disclosure required
16 pursuant to subparagraph (I) of paragraph (1).

17 (7) The amount of any administrative finance charge, labeled
18 “prepaid finance charge.”

19 (8) The difference between item (5) and the sum of items (6)
20 and (7), labeled “amount financed.”

21 (b) No particular terminology is required to disclose the items
22 set forth in subdivision (a) except as expressly provided in that
23 subdivision.

24 (c) If payment of all or a portion of the downpayment is to be
25 deferred, the deferred payment shall be reflected in the payment
26 schedule disclosed pursuant to Regulation Z.

27 (d) If the downpayment includes property being traded in, the
28 contract shall contain a brief description of that property.

29 (e) The contract shall contain the names and addresses of all
30 persons to whom the notice required under Section 2983.2 and
31 permitted under Sections 2983.5 and 2984 is to be sent.

32 (f) (1) If the contract includes a finance charge determined on
33 the precomputed basis, the contract shall identify the method of
34 computing the unearned portion of the finance charge in the
35 event of prepayment in full of the buyer’s obligation and contain
36 a statement of the amount or method of computation of any
37 charge that may be deducted from the amount of any unearned
38 finance charge in computing the amount that will be credited to
39 the obligation or refunded to the buyer. The method of
40 computing the unearned portion of the finance charge shall be

1 sufficiently identified with a reference to the actuarial method if
2 the computation will be under that method. The method of
3 computing the unearned portion of the finance charge shall be
4 sufficiently identified with a reference to the Rule of 78's, the
5 sum of the digits, or the sum of the periodic time balances
6 method in all other cases, and those references shall be deemed
7 to be equivalent for disclosure purposes.

8 (2) If the contract includes a finance charge that is determined
9 on the simple-interest basis but provides for a minimum finance
10 charge in the event of prepayment in full, the contract shall
11 contain a statement of that fact and the amount of the minimum
12 finance charge or its method of calculation.

13 (g) (1) If the contract includes a finance charge that is
14 determined on the precomputed basis and provides that the
15 unearned portion of the finance charge to be refunded upon full
16 prepayment of the contract is to be determined by a method other
17 than actuarial, the contract shall contain a notice, in at least
18 10-point boldface type if the contract is printed, reading as
19 follows: "Notice to buyer: (1) Do not sign this agreement before
20 you read it or if it contains any blank spaces to be filled in. (2)
21 You are entitled to a completely filled-in copy of this agreement.
22 (3) You can prepay the full amount due under this agreement at
23 any time and obtain a partial refund of the finance charge if it is
24 \$1 or more. Because of the way the amount of this refund will be
25 figured, the time when you prepay could increase the ultimate
26 cost of credit under this agreement. (4) If you default in the
27 performance of your obligations under this agreement, the
28 vehicle may be repossessed and you may be subject to suit and
29 liability for the unpaid indebtedness evidenced by this
30 agreement."

31 (2) If the contract includes a finance charge that is determined
32 on the precomputed basis and provides for the actuarial method
33 for computing the unearned portion of the finance charge upon
34 prepayment in full, the contract shall contain a notice, in at least
35 10-point boldface type if the contract is printed, reading as
36 follows: "Notice to buyer: (1) Do not sign this agreement before
37 you read it or if it contains any blank spaces to be filled in. (2)
38 You are entitled to a completely filled-in copy of this agreement.
39 (3) You can prepay the full amount due under this agreement at
40 any time and obtain a partial refund of the finance charge if it is

1 \$1 or more. (4) If you default in the performance of your
2 obligations under this agreement, the vehicle may be repossessed
3 and you may be subject to suit and liability for the unpaid
4 indebtedness evidenced by this agreement.”

5 (3) If the contract includes a finance charge that is determined
6 on the simple-interest basis, the contract shall contain a notice, in
7 at least 10-point boldface type if the contract is printed, reading
8 as follows: “Notice to buyer: (1) Do not sign this agreement
9 before you read it or if it contains any blank spaces to be filled in.

10 (2) You are entitled to a completely filled-in copy of this
11 agreement. (3) You can prepay the full amount due under this
12 agreement at any time. (4) If you default in the performance of
13 your obligations under this agreement, the vehicle may be
14 repossessed and you may be subject to suit and liability for the
15 unpaid indebtedness evidenced by this agreement.”

16 (h) The contract shall contain a notice in at least 8-point
17 boldface type, acknowledged by the buyer, that reads as follows:

18 “If you have a complaint concerning this sale, you should try to
19 resolve it with the seller.

20 Complaints concerning unfair or deceptive practices or
21 methods by the seller may be referred to the city attorney, the
22 district attorney, or an investigator for the Department of Motor
23 Vehicles, or any combination thereof.

24 After this contract is signed, the seller may not change the
25 financing or payment terms unless you agree in writing to the
26 change. You do not have to agree to any change, and it is an
27 unfair or deceptive practice for the seller to make a unilateral
28 change.

29
30 _____
31 Buyer’s Signature”
32

33 (i) (1) The contract shall contain an itemization of any
34 insurance included as part of the amount financed disclosed
35 pursuant to paragraph (3) of subdivision (a) and of any insurance
36 included as part of the finance charge. The itemization shall
37 identify the type of insurance coverage and the premium charged
38 therefor, and, if the insurance expires before the date of the last
39 scheduled installment included in the repayment schedule, the
40 term of the insurance shall be stated.

(2) If any charge for insurance, other than for credit life or disability, is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) Except for contracts in which the finance charge or portion thereof is determined by the simple-interest basis and the amount financed disclosed pursuant to paragraph (8) of subdivision (a) is more than two thousand five hundred dollars (\$2,500), the dollar amount of the disclosed finance charge may not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars (\$225), 1 ½ percent on so much of the unpaid balance in excess of two hundred twenty-five dollars (\$225) as does not exceed nine hundred dollars (\$900) and five-sixths of 1 percent on so much of the unpaid balance in excess of nine hundred dollars (\$900) as does not exceed two thousand five hundred dollars (\$2,500).

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment.

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars (\$25).

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars (\$25) if the unpaid balance does not exceed one thousand dollars (\$1,000).

(ii) Fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000) but does not exceed two thousand dollars (\$2,000).

(iii) Seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(2) The holder of the contract may not charge, collect, or receive a finance charge that exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of

1 one or more payments under a contract that provides for
2 determination of the finance charge or a portion thereof on the
3 365-day basis at a time or times other than as originally
4 scheduled whether or not the parties enter into an agreement
5 pursuant to Section 2982.3, (B) permitted by paragraph (2), (3),
6 or (4) of subdivision (c) of Section 226.17 of Regulation Z, or
7 (C) permitted by subdivisions (a) and (c) of Section 2982.8.

8 (3) If the finance charge or a portion thereof is determined by
9 the simple-interest basis and the amount of the unpaid balance
10 exceeds five thousand dollars (\$5,000), the holder of the contract
11 may, in lieu of its right to a minimum finance charge under
12 subparagraph (C) of paragraph (1), charge, receive, or collect on
13 the date of the contract an administrative finance charge not to
14 exceed seventy-five dollars (\$75), provided that the sum of the
15 administrative finance charge and the portion of the finance
16 charge determined by the simple-interest basis shall not exceed
17 the maximum total finance charge permitted by subparagraph (A)
18 of paragraph (1). Any administrative finance charge that is
19 charged, received, or collected by a holder shall be deemed a
20 finance charge earned on the date of the contract.

21 (4) If a contract provides for unequal or irregular payments, or
22 payments on other than a monthly basis, the maximum finance
23 charge shall be at the effective rate provided for in paragraph (1),
24 having due regard for the schedule of installments.

25 (k) The contract may provide that for each installment in
26 default for a period of not less than 10 days the buyer shall pay a
27 delinquency charge in an amount not to exceed in the aggregate 5
28 percent of the delinquent installment, which amount may be
29 collected only once on any installment regardless of the period
30 during which it remains in default. Payments timely received by
31 the seller under an extension or deferral agreement may not be
32 subject to a delinquency charge unless the charge is permitted by
33 Section 2982.3. The contract may provide for reasonable
34 collection costs and fees in the event of delinquency.

35 (l) Notwithstanding any provision of a contract to the contrary,
36 the buyer may pay at any time before maturity the entire
37 indebtedness evidenced by the contract without penalty. In the
38 event of prepayment in full:

39 (1) If the finance charge was determined on the precomputed
40 basis, the amount required to prepay the contract shall be the

1 outstanding contract balance as of that date, provided, however,
2 that the buyer shall be entitled to a refund credit in the amount of
3 the unearned portion of the finance charge, except as provided in
4 paragraphs (3) and (4). The amount of the unearned portion of
5 the finance charge shall be at least as great a proportion of the
6 finance charge, including any additional finance charge imposed
7 pursuant to Section 2982.8 or other additional charge imposed
8 because the contract has been extended, deferred, or refinanced,
9 as the sum of the periodic monthly time balances payable more
10 than 15 days after the date of prepayment bears to the sum of all
11 the periodic monthly time balances under the schedule of
12 installments in the contract or, if the contract has been extended,
13 deferred, or refinanced, as so extended, deferred, or refinanced. If
14 the amount of the refund credit is less than one dollar (\$1), no
15 refund credit need be made by the holder. Any refund credit may
16 be made in cash or credited to the outstanding obligations of the
17 buyer under the contract.

18 (2) If the finance charge or a portion thereof was determined
19 on the simple-interest basis, the amount required to prepay the
20 contract shall be the outstanding contract balance as of that date,
21 including any earned finance charges that are unpaid as of that
22 date and, if applicable, the amount provided in paragraph (3), and
23 provided further that in cases where a finance charge is
24 determined on the 360-day basis, the payments theretofore
25 received will be assumed to have been received on their
26 respective due dates regardless of the actual dates on which the
27 payments were received.

28 (3) Where the minimum finance charge provided by
29 subparagraph (B) or subparagraph (C) of paragraph (1) of
30 subdivision (j), if either is applicable, is greater than the earned
31 finance charge as of the date of prepayment, the holder shall be
32 additionally entitled to the difference.

33 (4) The provisions of this subdivision may not impair the right
34 of the seller or the seller's assignee to receive delinquency
35 charges on delinquent installments and reasonable costs and fees
36 as provided in subdivision (k) or extension or deferral agreement
37 charges as provided in Section 2982.3.

38 (5) Notwithstanding any provision of a contract to the
39 contrary, whenever the indebtedness created by any contract is
40 satisfied prior to its maturity through surrender of the motor

1 vehicle, repossession of the motor vehicle, redemption of the
2 motor vehicle after repossession, or any judgment, the
3 outstanding obligation of the buyer shall be determined as
4 provided in paragraph (1) or (2). Notwithstanding, the buyer's
5 outstanding obligation shall be computed by the holder as of the
6 date the holder recovers the value of the motor vehicle through
7 disposition thereof or judgment is entered or, if the holder elects
8 to keep the motor vehicle in satisfaction of the buyer's
9 indebtedness, as of the date the holder takes possession of the
10 motor vehicle.

11 (m) Notwithstanding any other provision of this chapter to the
12 contrary, any information required to be disclosed in a
13 conditional sale contract under this chapter may be disclosed in
14 any manner, method, or terminology required or permitted under
15 Regulation Z, as in effect at the time that disclosure is made,
16 except that permitted by paragraph (2) of subdivision (c) of
17 Section 226.18 of Regulation Z, provided that all of the
18 requirements and limitations set forth in subdivision (a) of this
19 section are satisfied. This chapter does not prohibit the disclosure
20 in that contract of additional information required or permitted
21 under Regulation Z, as in effect at the time that disclosure is
22 made.

23 (n) If the seller imposes a fee for document preparation, the
24 contract shall contain a disclosure that the fee is not a
25 governmental fee.

26 (o) A seller may not impose an application fee for a
27 transaction governed by this chapter.

28 (p) The seller or holder may charge and collect a fee not to
29 exceed fifteen dollars (\$15) for the return by a depository
30 institution of a dishonored check, negotiated order of withdrawal,
31 or share draft issued in connection with the contract, if the
32 contract so provides or if the contract contains a generalized
33 statement that the buyer may be liable for collection costs
34 incurred in connection with the contract.

35 (q) The contract shall disclose on its face, by printing the word
36 "new" or "used" within a box outlined in red, that is not smaller
37 than one-half inch high and one-half inch wide, whether the
38 vehicle is sold as a new vehicle, as defined in Section 430 of the
39 Vehicle Code, or as a used vehicle, as defined in Section 665 of
40 the Vehicle Code.

(r) The contract shall contain a notice with a heading in at least 12-point bold type and the text in at least 10-point bold type, circumscribed by a line, immediately above the contract signature line, that reads as follows:

THERE IS NO COOLING-OFF PERIOD UNLESS YOU
OBTAIN A CONTRACT CANCELLATION OPTION.

California law does not provide for a “cooling-off” or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign below, you may only cancel this contract with the agreement of the seller or for legal cause, such as fraud.

However, California law does require a seller to offer a 2-day contract cancellation option on used vehicles with a purchase price of less than \$40,000, subject to certain statutory conditions. This contract cancellation option requirement does not apply to the sale of a *recreational vehicle*, a motorcycle, or an off-highway motor vehicle subject to identification under California law. See the vehicle contract cancellation option agreement for details.

SEC. 3. Section 209 of the Code of Civil Procedure, as amended by Section 28 of Chapter 75 of the Statutes of 2005, is amended to read:

209. (a) Any prospective trial juror who has been summoned for service, and who fails to attend as directed or to respond to the court or jury commissioner and to be excused from attendance, may be attached and compelled to attend. Following an order to show cause hearing, the court may find the prospective juror in contempt of court, punishable by fine, incarceration, or both, as otherwise provided by law.

(b) In lieu of imposing sanctions for contempt as set forth in subdivision (a), the court may impose reasonable monetary sanctions, as provided in this subdivision, on a prospective juror who has not been excused pursuant to Section 204 after first providing the prospective juror with notice and an opportunity to be heard. If a juror fails to respond to the initial summons within 12 months, the court may issue a second summons indicating that

1 the person failed to appear in response to a previous summons
2 and ordering the person to appear for jury duty. Upon the failure
3 of the juror to appear in response to the second summons, the
4 court may issue a failure to appear notice informing the person
5 that failure to respond may result in the imposition of money
6 sanctions. If the prospective juror does not attend the court within
7 the time period as directed by the failure to appear notice, the
8 court shall issue an order to show cause. Payment of monetary
9 sanctions imposed pursuant to this subdivision does not relieve
10 the person of his or her obligation to perform jury duty.

11 (c) (1) The court may give notice of its intent to impose
12 sanctions by either of the following means:

13 (A) Verbally to a prospective juror appearing in person in
14 open court.

15 (B) The issuance on its own motion of an order to show cause
16 requiring the prospective juror to demonstrate reasons for not
17 imposing sanctions. The court may serve the order to show cause
18 by certified or first-class mail.

19 (2) The monetary sanctions imposed pursuant to subdivision
20 (b) may not exceed two hundred fifty dollars (\$250) for the first
21 violation, seven hundred fifty dollars (\$750) for the second
22 violation, and one thousand five hundred dollars (\$1,500) for the
23 third and any subsequent violation. Monetary sanctions may not
24 be imposed on a prospective juror more than once during a single
25 juror pool cycle. The prospective juror may be excused from
26 paying sanctions pursuant to subdivision (b) of Section 204 or in
27 the interests of justice. The full amount of any sanction paid shall
28 be deposited in a bank account established for this purpose by the
29 Administrative Office of the Courts and transmitted from that
30 account monthly to the Controller for deposit in the Trial Court
31 Trust Fund, as provided in Section 68085.1 of the Government
32 Code. It is the intent of the Legislature that the funds derived
33 from the monetary sanctions authorized in this section be
34 allocated, to the extent feasible, to the family courts and the civil
35 courts. The Judicial Council shall, by rule, provide for a
36 procedure by which a prospective juror against whom a sanction
37 has been imposed by default may move to set aside the default.

38 ~~(d) On or before December 31, 2005, the Judicial Council~~
39 ~~shall report to the Legislature regarding the effects of the~~
40 ~~implementation of subdivisions (b) and (c). The report shall~~

1 include, but not be limited to, information regarding any change
2 in rates of response to juror summons, the amount of moneys
3 collected pursuant to subdivision (c), the efficacy of the default
4 procedures adopted in rules of court, and how, if at all, the
5 Legislature may wish to alter this chapter to further attainment of
6 its objectives.

7 (e) ~~This section shall remain in effect only until January 1,~~
8 ~~2007, and as of that date is repealed, unless a later enacted~~
9 ~~statute, that is enacted before January 1, 2007, deletes or extends~~
10 ~~that date.~~

11 *SEC. 4. Section 209 of the Code of Civil Procedure, as added*
12 *by Section 2 of Chapter 359 of the Statutes of 2003, is repealed.*

13 ~~209. Any prospective trial juror who has been summoned for~~
14 ~~service, and who fails to attend the court as directed or to respond~~
15 ~~to the court or jury commissioner and to be excused from~~
16 ~~attendance, may be attached and compelled to attend. Following~~
17 ~~an order to show cause hearing, the court may find the~~
18 ~~prospective juror in contempt of court, punishable by fine,~~
19 ~~incarceration, or both, as otherwise provided by law.~~

20 ~~This section shall become operative on January 1, 2007.~~

21 ~~SEC. 3.~~

22 *SEC. 5. Section 1276 of the Code of Civil Procedure is*
23 *amended to read:*

24 1276. (a) All applications for change of names shall be made
25 to the superior court of the county where the person whose name
26 is proposed to be changed resides, except as specified in
27 subdivision (e), either (1) by petition signed by the person or, if
28 the person is under 18 years of age, either by one of the person's
29 parents, or by any guardian of the person, or if both parents are
30 dead and there is no guardian of the person, then by some near
31 relative or friend of the person or (2) as provided in Section 7638
32 of the Family Code.

33 The petition or pleading shall specify the place of birth and
34 residence of the person, his or her present name, the name
35 proposed, and the reason for the change of name.

36 (b) In a proceeding for a change of name commenced by the
37 filing of a petition, if the person whose name is to be changed is
38 under 18 years of age, the petition shall, if neither parent of the
39 person has signed the petition, name, as far as known to the
40 person proposing the name change, the parents of the person and

1 their place of residence, if living, or if neither parent is living,
2 near relatives of the person, and their place of residence.

3 (c) In a proceeding for a change of name commenced by the
4 filing of a petition, if the person whose name is proposed to be
5 changed is under 18 years of age and the petition is signed by
6 only one parent, the petition shall specify the address, if known,
7 of the other parent if living. If the petition is signed by a
8 guardian, the petition shall specify the name and address, if
9 known, of the parent or parents, if living, or the grandparents, if
10 the addresses of both parents are unknown or if both parents are
11 deceased, of the person whose name is proposed to be changed.

12 (d) In a proceeding for a change of name commenced by the
13 filing of a petition, if the person whose name is proposed to be
14 changed is 12 years of age or older, has been relinquished to an
15 adoption agency by his or her parent or parents, and has not been
16 legally adopted, the petition shall be signed by the person and the
17 adoption agency to which the person was relinquished. The near
18 relatives of the person and their place of residence shall not be
19 included in the petition unless they are known to the person
20 whose name is proposed to be changed.

21 (e) All petitions for the change of the name of a minor
22 submitted by a guardian appointed by the juvenile court or the
23 probate court shall be made in the appointing court.

24 (f) If the petition is signed by a guardian, the petition shall
25 specify relevant information regarding the guardianship, the
26 likelihood that the child will remain under the guardian's care
27 until the child reaches the age of majority, and information
28 suggesting that the child will not likely be returned to the custody
29 of his or her parents.

30 ~~SEC. 4.~~

31 *SEC. 6.* Section 1277 of the Code of Civil Procedure is
32 amended to read:

33 1277. (a) If a proceeding for a change of name is commenced
34 by the filing of a petition, except as provided in subdivisions (b)
35 and (e), the court shall thereupon make an order reciting the
36 filing of the petition, the name of the person by whom it is filed,
37 and the name proposed. The order shall direct all persons
38 interested in the matter to appear before the court at a time and
39 place specified, which shall be not less than six or more than 12
40 weeks from the time of making the order, unless the court orders

1 a different time, to show cause why the application for change of
2 name should not be granted. The order shall direct all persons
3 interested in the matter to make known any objection that they
4 may have to the granting of the petition for change of name by
5 filing a written objection, which includes the reasons for the
6 objection, with the court at least two court days before the matter
7 is scheduled to be heard and by appearing in court at the hearing
8 to show cause why the petition for change of name should not be
9 granted. The order shall state that, if no written objection is
10 timely filed, the court may grant the petition without a hearing.

11 A copy of the order to show cause shall be published pursuant
12 to Section 6064 of the Government Code in a newspaper of
13 general circulation to be designated in the order published in the
14 county. If no newspaper of general circulation is published in the
15 county, a copy of the order to show cause shall be posted by the
16 clerk of the court in three of the most public places in the county
17 in which the court is located, for a like period. Proof shall be
18 made to the satisfaction of the court of this publication or
19 posting, at the time of the hearing of the application.

20 Four weekly publications shall be sufficient publication of the
21 order to show cause. If the order is published in a daily
22 newspaper, publication once a week for four successive weeks
23 shall be sufficient.

24 If a petition has been filed for a minor by a parent and the other
25 parent, if living, does not join in consenting thereto, the petitioner
26 shall cause, not less than 30 days prior to the hearing, to be
27 served notice of the time and place of the hearing or a copy of the
28 order to show cause on the other parent pursuant to Section
29 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot
30 reasonably be accomplished pursuant to Section 415.10 or
31 415.40, the court may order that notice be given in a manner that
32 the court determines is reasonably calculated to give actual notice
33 to the nonconsenting parent. For good cause, the court may
34 determine that publication of the order to show cause pursuant to
35 this subdivision is sufficient notice to the nonconsenting parent.

36 (b) If the petition for a change of name alleges that the reason
37 for the petition is to avoid domestic violence, as defined in
38 Section 6211 of the Family Code, or stalking, as defined in
39 Section 646.9 of the Penal Code, and the petitioner is a
40 participant in the address confidentiality program created

1 pursuant to Chapter 3.1 (commencing with Section 6205) of
2 Division 7 of Title 1 of the Government Code, the petition, the
3 order of the court, and the copy published pursuant to subdivision
4 (a) shall, in lieu of reciting the proposed name, indicate that the
5 proposed name is confidential and will be on file with the
6 Secretary of State pursuant to the provisions of the address
7 confidentiality program.

8 (c) A proceeding for a change of name for a witness
9 participating in the state Witness Protection Program established
10 by Title 7.5 (commencing with Section 14020) of Part 4 of the
11 Penal Code who has been approved for the change of name by
12 the program is exempt from the requirement for publication of
13 the order to show cause under subdivision (a).

14 (d) If application for change of name is brought as part of an
15 action under the Uniform Parentage Act (Part 3 (commencing
16 with Section 7600) of Division 12 of the Family Code), whether
17 as part of a petition or cross-complaint or as a separate order to
18 show cause in a pending action thereunder, service of the
19 application shall be made upon all other parties to the action in a
20 like manner as prescribed for the service of a summons, as is set
21 forth in Article 3 (commencing with Section 415.10) of Chapter
22 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue,
23 notice of the hearing shall be given to all parties in the action in a
24 like manner and within the time limits prescribed generally for
25 the type of hearing (whether trial or order to show cause) at
26 which the issue of the change of name is to be decided.

27 (e) If a guardian files a petition to change the name of his or
28 her minor ward pursuant to Section 1276:

29 (1) The guardian shall provide notice of the hearing to any
30 living parent of the minor by personal service at least 30 days
31 prior to the hearing.

32 (2) If either or both parents are deceased or cannot be located,
33 the guardian shall cause, not less than 30 days prior to the
34 hearing, to be served a notice of the time and place of the hearing
35 or a copy of the order to show cause on the child's grandparents,
36 if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

37 ~~SEC. 5.~~

38 *SEC. 7.* Section 1278 of the Code of Civil Procedure is
39 amended to read:

1 1278. (a) Except as provided in subdivisions (c) and (d), the
2 petition or application shall be heard at the time designated by
3 the court, only if objections are filed by any person who can, in
4 those objections, show to the court good reason against the
5 change of name. At the hearing, the court may examine on oath
6 any of the petitioners, remonstrants, or other persons, touching
7 the petition or application, and may make an order changing the
8 name, or dismissing the petition or application, as to the court
9 may seem right and proper.

10 If no objection is filed at least two court days before the date
11 set for hearing, the court may, without hearing, enter the order
12 that the change of name is granted.

13 (b) If the provisions of subdivision (b) of Section 1277 apply,
14 the court shall not disclose the proposed name unless the court
15 finds by clear and convincing evidence that the allegations of
16 domestic violence or stalking in the petition are false.

17 (c) If the application for a change of name is brought as part of
18 an action under the Uniform Parentage Act (Part 3 (commencing
19 with Section 7600) of Division 12 of the Family Code), the
20 hearing on the issue of the change of name shall be conducted
21 pursuant to statutes and rules of court governing those
22 proceedings, whether the hearing is conducted upon an order to
23 show cause or upon trial.

24 (d) If the petition for a change of name is filed by a guardian
25 on behalf of a minor ward, the court shall first find that the ward
26 is likely to remain in the guardian's care until the age of majority
27 and that the ward is not likely to be returned to the custody of his
28 or her parents. Upon making those findings, the court shall
29 consider the petition and may grant the petition only if it finds
30 that the proposed name change is in the best interest of the child.

31 ~~SEC. 6.~~

32 *SEC. 8.* Section 1278.5 of the Code of Civil Procedure is
33 amended to read:

34 1278.5. In any proceeding pursuant to this title in which a
35 petition has been filed to change the name of a minor, and both
36 parents, if living, do not join in consent, the court may deny the
37 petition in whole or in part if it finds that any portion of the
38 proposed name change is not in the best interest of the child.

1 ~~SEC. 7.~~

2 *SEC. 9.* Section 1279.5 of the Code of Civil Procedure is
3 amended to read:

4 1279.5. (a) Except as provided in subdivision (b), (c), (d), or
5 (e), nothing in this title shall be construed to abrogate the
6 common law right of any person to change his or her name.

7 (b) Notwithstanding any other law, no person imprisoned in
8 the state prison and under the jurisdiction of the Director of
9 Corrections shall be allowed to file a petition for change of name
10 pursuant to Section 1276, except as permitted at the discretion of
11 the Director of Corrections.

12 (c) A court shall deny a petition for a name change pursuant to
13 Section 1276 made by a person who is under the jurisdiction of
14 the Department of Corrections, unless that person's parole agent
15 or probation officer grants prior written approval. Before
16 granting that approval, the parole agent or probation officer shall
17 determine that the name change will not pose a security risk to
18 the community.

19 (d) Notwithstanding any other law, a court shall deny a
20 petition for a name change pursuant to Section 1276 made by a
21 person who is required to register as a sex offender under Section
22 290 of the Penal Code, unless the court determines that it is in the
23 best interest of justice to grant the petition and that doing so will
24 not adversely affect the public safety. If a petition for a name
25 change is granted for an individual required to register as a sex
26 offender, the individual shall, within five working days, notify
27 the chief of police of the city in which he or she is domiciled, or
28 the sheriff of the county if he or she is domiciled in an
29 unincorporated area, and additionally with the chief of police of
30 a campus of a University of California or California State
31 University if he or she is domiciled upon the campus or in any of
32 its facilities.

33 (e) For the purpose of this section, the court shall use the
34 California Law Enforcement Telecommunications System
35 (CLETS) and Criminal Justice Information System (CJIS) to
36 determine whether or not an applicant for a name change is under
37 the jurisdiction of the Department of Corrections or is required to
38 register as a sex offender pursuant to Section 290 of the Penal
39 Code. Each person applying for a name change shall declare
40 under penalty of perjury that he or she is not under the

1 jurisdiction of the Department of Corrections or is required to
2 register as a sex offender pursuant to Section 290 of the Penal
3 Code. If a court is not equipped with CLETS or CJIS, the clerk of
4 the court shall contact an appropriate local law enforcement
5 agency, which shall determine whether or not the petitioner is
6 under the jurisdiction of the Department of Corrections or is
7 required to register as a sex offender pursuant to Section 290 of
8 the Penal Code.

9 *SEC. 10. Section 5220 of the Corporations Code is amended*
10 *to read:*

11 5220. (a) Except as provided in subdivision (d), directors
12 shall be elected for ~~such~~ *the* terms, not longer than ~~three~~ *four*
13 years, as are fixed in the articles or bylaws. However, the terms
14 of directors of a corporation without members may be up to six
15 years. In the absence of any provision in the articles or bylaws,
16 the term shall be one year. The articles or bylaws may provide
17 for staggering the terms of directors by dividing the total number
18 of directors into groups of one or more directors. The terms of
19 office of the several groups and the number of directors in each
20 group need not be uniform. No amendment of the articles or
21 bylaws may extend the term of a director beyond that for which
22 the director was elected, nor may any bylaw provision increasing
23 the terms of directors be adopted without approval of the
24 members (Section 5034).

25 (b) Unless the articles or bylaws otherwise provide, each
26 director, including a director elected to fill a vacancy, shall hold
27 office until the expiration of the term for which elected and until
28 a successor has been elected and qualified.

29 (c) The articles or bylaws may provide for the election of one
30 or more directors by the members of any class voting as a class.

31 (d) Subdivisions (a) through (c) notwithstanding, all or any
32 portion of the directors authorized in the articles or bylaws of a
33 corporation may hold office by virtue of designation or selection
34 as provided by the articles or bylaws rather than by election by a
35 member or members. Such directors shall continue in office for
36 the term prescribed by the governing article or bylaw provision,
37 or, if there is no term prescribed, until the governing article or
38 bylaw provision is duly amended or repealed, except as provided
39 in subdivision (e) of Section 5222. A bylaw provision authorized
40 by this subdivision may be adopted, amended, or repealed only

1 by approval of the members (Section 5034), subject, if so
2 provided in the bylaws, to the consent of the person or persons
3 entitled to designate or select any such director or directors.

4 (e) If a corporation has not issued memberships and (1) all the
5 directors resign, die, or become incompetent, or (2) a
6 corporation's initial directors have not been named in the articles
7 and all incorporators resign, die, or become incompetent before
8 the election of the initial directors, the superior court of any
9 county may appoint directors of the corporation upon application
10 by any party in interest.

11 *SEC. 11. Section 2103 of the Family Code is amended to*
12 *read:*

13 2103. In order to provide full and accurate disclosure of all
14 assets and liabilities in which one or both parties may have an
15 interest, each party ~~to~~ *who has appeared in* a proceeding for
16 dissolution of the marriage or legal separation of the parties shall
17 serve on the other party a preliminary declaration of disclosure
18 under Section 2104 and a final declaration of disclosure under
19 Section 2105, unless service of the final declaration of disclosure
20 is waived pursuant to Section 2105 or 2110, and shall file proof
21 of service of each with the court.

22 *SEC. 12. Section 2104 of the Family Code is amended to*
23 *read:*

24 2104. (a) ~~After~~ *Except by court order for good cause as*
25 *provided in Section 2107, after* or concurrently with service of
26 the petition for dissolution or nullity of marriage or legal
27 separation of the parties, each party shall serve on the other party
28 a preliminary declaration of disclosure, executed under penalty of
29 perjury on a form prescribed by the Judicial Council. The
30 commission of perjury on the preliminary declaration of
31 disclosure may be grounds for setting aside the judgment, or any
32 part or parts thereof, pursuant to Chapter 10 (commencing with
33 Section 2120), in addition to any and all other remedies, civil or
34 criminal, that otherwise are available under law for the
35 commission of perjury.

36 (b) The preliminary declaration of disclosure shall not be filed
37 with the court, except on court order; ~~however.~~ *However,* the
38 parties shall file proof of service of the preliminary declaration of
39 disclosure with the court.

(c) The preliminary declaration of disclosure shall set forth with sufficient particularity, that a person of reasonable and ordinary intelligence can ascertain, all of the following:

(1) The identity of all assets in which the declarant has or may have an interest and all liabilities for which the declarant is or may be liable, regardless of the characterization of the asset or liability as community, quasi-community, or separate.

(2) The declarant's percentage of ownership in each asset and percentage of obligation for each liability where property is not solely owned by one or both of the parties. The preliminary declaration may also set forth the declarant's characterization of each asset or liability.

(d) A declarant may amend his or her preliminary declaration of disclosure without leave of the court. Proof of service of any amendment shall be filed with the court.

(e) Along with the preliminary declaration of disclosure, each party shall provide the other party with a completed income and expense declaration unless an income and expense declaration has already been provided and is current and valid.

SEC. 13. Section 2106 of the Family Code is amended to read:

2106. Except as provided in subdivision (d) of Section 2105 ~~or in~~ Section 2110, *or absent good cause as provided in Section 2107*, no judgment shall be entered with respect to the parties' property rights without each party, or the attorney for that party in this matter, having executed and served a copy of the final declaration of disclosure and current income and expense declaration. Each party, or his or her attorney, shall execute and file with the court a declaration signed under penalty of perjury stating that service of the final declaration of disclosure and current income and expense declaration was made on the other party or that service of the final declaration of disclosure has been waived pursuant to subdivision (d) of Section 2105 or in Section 2110.

SEC. 14. Section 2107 of the Family Code is amended to read:

2107. (a) If one party fails to serve on the other party a preliminary declaration of disclosure under Section 2104 or a final declaration of disclosure under Section 2105, or fails to provide the information required in the respective declarations

1 with sufficient particularity, and if the other party has served the
2 respective declaration of disclosure on the noncomplying party,
3 the complying party may, within a reasonable time, request
4 preparation of the appropriate declaration of disclosure or further
5 particularity.

6 (b) If the noncomplying party fails to comply with a request
7 under subdivision (a), the complying party may do ~~either one or~~
8 ~~both~~ *more* of the following:

9 (1) File a motion to compel a further response.

10 (2) File a motion for an order preventing the noncomplying
11 party from presenting evidence on issues that should have been
12 covered in the declaration of disclosure.

13 (3) *File a motion showing good cause for the court to grant*
14 *the complying party's voluntary waiver of receipt of the*
15 *noncomplying party's preliminary declaration of disclosure*
16 *under Section 2104 or final declaration of disclosure under*
17 *Section 2105. The voluntary waiver does not affect the right of*
18 *either party to request the court to set aside the judgment as*
19 *provided in subdivision (d).*

20 (c) If a party fails to comply with any provision of this
21 chapter, the court shall, in addition to any other remedy provided
22 by law, impose money sanctions against the noncomplying party.
23 Sanctions shall be in an amount sufficient to deter repetition of
24 the conduct or comparable conduct, and shall include reasonable
25 attorney's fees, costs incurred, or both, unless the court finds that
26 the noncomplying party acted with substantial justification or
27 that other circumstances make the imposition of the sanction
28 unjust.

29 (d) ~~If~~ *Except as otherwise provided in this subdivision, if a*
30 *court enters a judgment when the parties have failed to comply*
31 *with all disclosure requirements of this chapter, the court shall set*
32 *aside the judgment. The failure to comply with the disclosure*
33 *requirements does not constitute harmless error. If the court*
34 *granted the complying party's voluntary waiver of receipt of the*
35 *noncomplying party's preliminary declaration of disclosure*
36 *pursuant to paragraph (3) of subdivision (b), the court shall set*
37 *aside the judgment only at the request of the complying party.*

38 (e) Upon the motion to set aside judgment, the court may order
39 the parties to provide the preliminary and final declarations of
40 disclosure that were exchanged between them. Absent a court

1 order to the contrary, the disclosure declarations shall not be filed
2 with the court and shall be returned to the parties.

3 *SEC. 15. Section 3150.2 is added to the Family Code, to*
4 *read:*

5 *3150.2. (a) In order to ensure a high quality of expertise for*
6 *appointed private counsel for minors, each court shall, on or*
7 *before January 1, 2008, create a minor's counsel panel of*
8 *attorneys meeting the minimum qualifications set forth below, for*
9 *appointment in case proceedings under this division requiring*
10 *minor's counsel.*

11 *(b) Court-approved minor's counsel shall provide verification*
12 *of all of the following:*

13 *(1) Licensure as an attorney for at least three years during*
14 *which time period at least 50 percent of the attorney's practice*
15 *was devoted to family law with substantial emphasis in custody*
16 *cases.*

17 *(2) A minimum of eight hours of training per year, accredited*
18 *for mandatory continuing legal education and offered by the*
19 *Judicial Council, State Bar, a local bar association, the court, or*
20 *any other group in subjects specifically relating to the*
21 *representation of children.*

22 *(3) Professional liability insurance.*

23 *(c) Each court, subject to the exceptions in subdivision (e),*
24 *shall maintain a list of attorneys who meet the qualifications in*
25 *subdivision (b). A qualified attorney shall provide verification of*
26 *his or her meeting the qualification requirements to the court and*
27 *annually certify to the court the following:*

28 *(1) Current licensure in good standing and proof of liability*
29 *insurance.*

30 *(2) Completion of eight hours per year of accredited*
31 *continuing education in the area of custody and representing*
32 *children.*

33 *(d) Each attorney appointed to represent minors shall notify*
34 *the court within five days of any public or private disciplinary*
35 *proceeding by the State Bar, or any removal for cause pursuant*
36 *to Section 3150.4, stating the basis of the complaint and, when*
37 *available, the result of the proceeding.*

38 *(e) A court may appoint an attorney not on the court-approved*
39 *minor's counsel panel in special circumstances, taking into*
40 *consideration factors such as language, culture, special needs of*

1 children, other specialized training of the attorney, unless
2 appointment from outside the panel is otherwise prohibited by a
3 local rule of court.

4 (f) In counties where the attorney population or expertise does
5 not make the creation of a panel possible, each court is
6 encouraged to form a partnership or regional panel of qualified
7 attorneys willing to be appointed in the courts participating in
8 that regional endeavor.

9 (g) The Judicial Council may, on or before June 30, 2011,
10 report to the Legislature on the number of appointed counsel
11 removed for cause or who have had disciplinary proceedings
12 instituted against them and the results of those actions.

13 (h) This section shall remain in effect only until January 1,
14 2012, and as of that date is repealed unless a later enacted
15 statute, that is enacted before January 1, 2012, deletes or extends
16 that date.

17 SEC. 16. Section 3150.4 is added to the Family Code, to
18 read:

19 3150.4. (a) If the court has appointed private counsel to
20 represent the best interest of the child pursuant to Section 3150,
21 a parent or a party to the proceeding may request that the court
22 terminate the appointment of the counsel or resolve any
23 complaint by the parent or party regarding the actions of the
24 appointed counsel.

25 (b) That request shall be by noticed motion to the appointing
26 court. The motion shall include a declaration under penalty of
27 perjury by the moving party stating the basis for the request. The
28 motion shall be filed and served in the same manner and time
29 limits as any other family law motion.

30 (c) Private counsel appointed by the court pursuant to Section
31 3150.2, meeting the requirements set forth in subdivision (b) of
32 Section 3150.2, and not retained by one party to advocate for the
33 child, shall be entitled to quasi-judicial immunity for any
34 communications or conduct during the course of counsel's duties
35 as counsel for the minor child from the date of appointment until
36 the order relieving counsel from that appointment. Quasi-judicial
37 immunity provided herein is the same as that provided to
38 court-appointed mediators, investigators, and evaluators by case
39 law.

1 (d) *This section shall remain in effect only until January 1,*
2 2012, and as of that date is repealed unless a later enacted
3 statute, that is enacted before January 1, 2012, deletes or extends
4 that date.

5 ~~SEC. 8.~~

6 SEC. 17. Section 12585 of the Government Code is amended
7 to read:

8 12585. (a) Every charitable corporation, unincorporated
9 association, and trustee subject to this article shall file with the
10 Attorney General an initial registration form, under oath, setting
11 forth information and attaching documents prescribed in
12 accordance with rules and regulations of the Attorney General,
13 within 30 days after the corporation, unincorporated association,
14 or trustee initially receives property. A trustee is not required to
15 register as long as the charitable interest in a trust is a future
16 interest, but shall do so within 30 days after any charitable
17 interest in a trust becomes a present interest.

18 (b) The Attorney General shall adopt rules and regulations as
19 to the contents of the initial registration form and the manner of
20 executing and filing that document or documents.

21 ~~SEC. 9.~~

22 SEC. 18. Section 12599 of the Government Code is amended
23 to read:

24 12599. (a) “Commercial fundraiser for charitable purposes”
25 means any individual, corporation, unincorporated association, or
26 other legal entity who for compensation does any of the
27 following:

28 (1) Solicits funds, assets, or property in this state for charitable
29 purposes.

30 (2) As a result of a solicitation of funds, assets, or property in
31 this state for charitable purposes, receives or controls the funds,
32 assets, or property solicited for charitable purposes.

33 (3) Employs, procures, or engages any compensated person to
34 solicit, receive, or control funds, assets, or property for charitable
35 purposes.

36 A commercial fundraiser for charitable purposes shall include
37 any person, association of persons, corporation, or other entity
38 that obtains a majority of its inventory for sale by the purchase,
39 receipt, or control for resale to the general public, of salvageable
40 personal property solicited by an organization qualified to solicit

1 donations pursuant to Section 148.3 of the Welfare and
2 Institutions Code.

3 A commercial fundraiser for charitable purposes shall not
4 include a “trustee” as defined in Section 12582 or 12583, a
5 “charitable corporation” as defined in Section 12582.1, or any
6 employee thereof. A commercial fundraiser for charitable
7 purposes shall not include an individual who is employed by or
8 under the control of a commercial fundraiser for charitable
9 purposes registered with the Attorney General. A commercial
10 fundraiser for charitable purposes shall not include any federally
11 insured financial institution that holds as a depository funds
12 received as a result of a solicitation for charitable purposes.

13 As used in this section, “charitable purposes” includes any
14 solicitation in which the name of any organization of law
15 enforcement personnel, firefighters, or other persons who protect
16 the public safety is used or referred to as an inducement for
17 transferring any funds, assets, or property, unless the only
18 expressed or implied purpose of the solicitation is for the sole
19 benefit of the actual active membership of the organization.

20 (b) A commercial fundraiser for charitable purposes shall,
21 prior to soliciting any funds, assets, or property, including
22 salvageable personal property, in California for charitable
23 purposes, or prior to receiving and controlling any funds, assets,
24 or property, including salvageable personal property, as a result
25 of a solicitation in this state for charitable purposes, register with
26 the Attorney General’s Registry of Charitable Trusts on a
27 registration form provided by the Attorney General. Renewals of
28 registration shall be filed with the Registry of Charitable Trusts
29 by January 15 of each calendar year in which the commercial
30 fundraiser for charitable purposes does business and shall be
31 effective for one year. A registration or renewal fee of two
32 hundred dollars (\$200) shall be required for registration of a
33 commercial fundraiser for charitable purposes, and shall be
34 payable by certified or cashier’s check to the Attorney General’s
35 Registry of Charitable Trusts at the time of registration or
36 renewal. The Attorney General may adjust the annual registration
37 or renewal fee, or means of payment, as needed pursuant to this
38 section. The Attorney General’s Registry of Charitable Trusts
39 may grant extensions of time to file annual registration as
40 required, pursuant to subdivision (b) of Section 12586.

1 (c) A commercial fundraiser for charitable purposes shall file
2 with the Attorney General's Registry of Charitable Trusts an
3 annual financial report on a form provided by the Attorney
4 General, accounting for all funds collected pursuant to any
5 solicitation for charitable purposes during the preceding calendar
6 year. The annual financial report shall be filed with the Attorney
7 General's Registry of Charitable Trusts no later than 30 days
8 after the close of the preceding calendar year.

9 (d) The contents of the forms for annual registration and
10 annual financial reporting by commercial fundraisers for
11 charitable purposes shall be established by the Attorney General
12 in a manner consistent with the procedures set forth in
13 subdivisions (a) and (b) of Section 12586. The annual financial
14 report shall require a detailed, itemized accounting of funds,
15 assets, or property, solicited for charitable purposes on behalf of
16 each charitable organization exempt from taxation under Section
17 501(c)(3) of the Internal Revenue Code or for each charitable
18 purpose during the accounting period, and shall include, among
19 other data, the following information for funds, assets, or
20 property, solicited by the commercial fundraiser for charitable
21 purposes:

22 (1) Total revenue.

23 (2) The fee or commission charged by the commercial
24 fundraiser for charitable purposes.

25 (3) Salaries paid by the commercial fundraiser for charitable
26 purposes to its officers and employees.

27 (4) Fundraising expenses.

28 (5) Distributions to the identified charitable organization or
29 purpose.

30 (6) The names and addresses of any director, officer, or
31 employee of the commercial fundraiser for charitable purposes
32 who is a director, officer, or employee of any charitable
33 organization listed in the annual financial report.

34 (e) A commercial fundraiser for charitable purposes that
35 obtains a majority of its inventory for sale by the purchase,
36 receipt, or control for resale to the general public, of salvageable
37 personal property solicited by an organization qualified to solicit
38 donations pursuant to Section 148.3 of the Welfare and
39 Institutions Code shall file with the Attorney General's Registry
40 of Charitable Trusts, and not with the sheriff of any county, an

1 annual financial report on a form provided by the Attorney
2 General that is separate and distinct from forms filed by other
3 commercial fundraisers for charitable purposes pursuant to
4 subdivisions (c) and (d).

5 (f) It shall be unlawful for any commercial fundraiser for
6 charitable purposes to solicit funds in this state for charitable
7 purposes unless the commercial fundraiser for charitable
8 purposes has complied with the registration or annual renewal
9 and financial reporting requirements of this article. Failure to
10 comply with these registration or annual renewal and financial
11 reporting requirements shall be grounds for injunction against
12 solicitation in this state for charitable purposes and other civil
13 remedies provided by law.

14 (g) A commercial fundraiser for charitable purposes is a
15 constructive trustee for charitable purposes as to all funds
16 collected pursuant to solicitation for charitable purposes and shall
17 account to the Attorney General for all funds. A commercial
18 fundraiser for charitable purposes is subject to the Attorney
19 General's supervision and enforcement over charitable funds and
20 assets to the same extent as a trustee for charitable purposes
21 under this article.

22 (h) Not less than 10 working days prior to the commencement
23 of each solicitation campaign, event, or service, or not later than
24 commencement of solicitation for solicitations to aid victims of
25 emergency hardship or disasters, a commercial fundraiser for
26 charitable purposes shall file with the Attorney General's
27 Registry of Charitable Trusts a notice on a form prescribed by the
28 Attorney General that sets forth all of the following:

29 (1) The name, address, and telephone number of the
30 commercial fundraiser for charitable purposes.

31 (2) The name, address, and telephone number of the charitable
32 organization with whom the commercial fundraiser has
33 contracted.

34 (3) The fundraising methods to be used.

35 (4) The projected dates when performance under the contract
36 will commence and terminate.

37 (5) The name, address, and telephone number of the person
38 responsible for directing and supervising the work of the
39 commercial fundraiser under the contract.

(i) There shall be a written contract between a commercial fundraiser for charitable purposes and a charitable organization for each solicitation campaign, event, or service, that shall be signed by the authorized contracting officer for the commercial fundraiser and by an official of the charitable organization who is authorized to sign by the organization's governing body. The contract shall be available for inspection by the Attorney General and shall contain all of the following provisions:

(1) The legal name and address of the charitable organization as registered with the Registry of Charitable Trusts, unless the charitable organization is exempt from registration.

(2) A statement of the charitable purpose for which the solicitation campaign, event, or service is being conducted.

(3) A statement of the respective obligations of the commercial fundraiser and the charitable organization.

(4) If the commercial fundraiser is to be paid a fixed fee, a statement of the fee to be paid to the commercial fundraiser and a good faith estimate of what percentage the fee will constitute of the total contributions received. The contract shall clearly disclose the assumptions upon which the estimate is based, and the stated assumptions shall be based upon all of the relevant facts known to the commercial fundraiser regarding the solicitation to be conducted by the commercial fundraiser.

(5) If a percentage fee is to be paid to the commercial fundraiser, a statement of the percentage of the total contributions received that will be remitted to or retained by the charitable organization, or, if the solicitation involves the sale of goods or services or the sale of admissions to a fundraising event, the percentage of the purchase price that will be remitted to the charitable organization. The stated percentage shall be calculated by subtracting from contributions received and sales receipts not only the commercial fundraiser's fee, but also any additional amounts that the charitable organization is obligated to pay as fundraising costs.

(6) The effective and termination dates of the contract and the date solicitation activity is to commence within the state.

(7) A provision that requires that each contribution in the control or custody of the commercial fundraiser shall in its entirety and within five working days of its receipt comply with either of the following:

1 (A) Be deposited in an account at a bank or other federally
2 insured financial institution that is solely in the name of the
3 charitable organization and over which the charitable
4 organization has sole control of withdrawals.

5 (B) Be delivered to the charitable organization in person, by
6 United States express mail, or by another method of delivery
7 providing for overnight delivery.

8 (8) A statement that the charitable organization exercises
9 control and approval over the content and frequency of any
10 solicitation.

11 (9) If the commercial fundraiser proposes to make any
12 payment in cash or in kind to any person or legal entity to secure
13 any person's attendance at, or sponsorship, approval, or
14 endorsement of, a charity fundraising event, the maximum dollar
15 amount of those payments shall be set forth in the contract.
16 "Charity fundraising event" means any gathering of persons,
17 including, but not limited to, a party, banquet, concert, or show,
18 that is held for the purpose or claimed purpose of raising funds
19 for any charitable purpose or organization.

20 (10) A provision that includes all of the following statements:

21 (A) The charitable organization has the right to cancel the
22 contract without cost, penalty, or liability for a period of 10 days
23 following the date on which the contract is executed.

24 (B) The charitable organization may cancel the contract by
25 serving a written notice of cancellation on the commercial
26 fundraiser.

27 (C) If mailed, service shall be by certified mail, return receipt
28 requested, and cancellation shall be deemed effective upon the
29 expiration of five calendar days from the date of mailing.

30 (D) Any funds collected after effective notice that the contract
31 has been canceled shall be deemed to be held in trust for the
32 benefit of the charitable organization without deduction for costs
33 or expenses of any nature.

34 (E) The charitable organization shall be entitled to recover all
35 funds collected after the date of cancellation.

36 (11) A provision that includes all of the following statements:

37 (A) Following the initial 10-day cancellation period, the
38 charitable organization may terminate the contract by giving 30
39 days' written notice.

1 (B) If mailed, service of the notice shall be by certified mail,
2 return receipt requested, and shall be deemed effective upon the
3 expiration of five calendar days from the date of mailing.

4 (C) In the event of termination under this subdivision, the
5 charitable organization shall be liable for services provided by
6 the commercial fundraiser up to 30 days after the effective
7 service of the notice.

8 (12) A provision that, following the initial 10-day cancellation
9 period, the charitable organization may terminate the contract at
10 any time upon written notice, without payment or compensation
11 of any kind to the commercial fundraiser, if the commercial
12 fundraiser or its agents, employees, or representatives do any of
13 the following:

14 (A) Make any material misrepresentations in the course of
15 solicitations or with respect to the charitable organization.

16 (B) Are found by the charitable organization to have been
17 convicted of a crime arising from the conduct of a solicitation for
18 a charitable organization or purpose punishable as a
19 misdemeanor or a felony.

20 (C) Otherwise conduct fundraising activities in a manner that
21 causes or could cause public disparagement of the charitable
22 organization's good name or good will.

23 (13) Any other information required by the regulations of the
24 Attorney General.

25 (j) It shall be unlawful for a commercial fundraiser for
26 charitable purposes to not disclose the percentage of total
27 fundraising expenses of the fundraiser upon receiving a written
28 or oral request from a person solicited for a contribution for a
29 charitable purpose. "Percentage of total fundraising expenses," as
30 used in this section, means the ratio of the total expenses of the
31 fundraiser to the total revenue received by the fundraiser for the
32 charitable purpose for which funds are being solicited, as
33 reported on the most recent financial report filed with the
34 Attorney General's Registry of Charitable Trusts. A commercial
35 fundraiser shall disclose this information in writing within five
36 working days from receipt of a request by mail or facsimile. A
37 commercial fundraiser shall orally disclose this information
38 immediately upon a request made in person or in a telephone
39 conversation and shall follow this response with a written
40 disclosure within five working days. Failure to comply with the

1 requirements of this subdivision shall be grounds for an
2 injunction against solicitation in this state for charitable purposes
3 and other civil remedies provided by law.

4 (k) If the Attorney General issues a report to the public
5 containing information obtained from registration forms or
6 financial report forms filed by commercial fundraisers for
7 charitable purposes, there shall be a separate section concerning
8 commercial fundraisers for charitable purposes that obtain a
9 majority of their inventory for sale by the purchase, receipt, or
10 control for resale to the general public, of salvageable personal
11 property solicited by an organization qualified to solicit
12 donations pursuant to Section 148.3 of the Welfare and
13 Institutions Code. The report shall include an explanation of the
14 distinctions between these thrift store operations and other types
15 of commercial fundraising.

16 (l) No person may act as a commercial fundraiser for
17 charitable purposes if that person, any officer or director of that
18 person's business, any person with a controlling interest in the
19 business, or any person the commercial fundraiser employs,
20 engages, or procures to solicit for compensation, has been
21 convicted by a court of any state or the United States of a crime
22 arising from the conduct of a solicitation for a charitable
23 organization or purpose punishable as a misdemeanor or felony.

24 (m) A commercial fundraiser for charitable purposes shall not
25 solicit in the state on behalf of a charitable organization unless
26 that charitable organization is registered or is exempt from
27 registration with the Attorney General's Registry of Charitable
28 Trusts.

29 (n) If any provision of this section or the application thereof to
30 any person or circumstances is held invalid, that invalidity shall
31 not affect any other provision or application of this section that
32 can be given effect without the invalid provision or application,
33 and to this end the provisions of this section are severable.

34 ~~SEC. 10.~~

35 *SEC. 19.* Section 12599.1 of the Government Code is
36 amended to read:

37 12599.1. (a) "Fundraising counsel for charitable purposes" is
38 defined as any individual, corporation, unincorporated
39 association, or other legal entity who is described by all of the
40 following:

1 (1) For compensation plans, manages, advises, counsels,
2 consults, or prepares material for, or with respect to, the
3 solicitation in this state of funds, assets, or property for charitable
4 purposes.

5 (2) Does not solicit funds, assets, or property for charitable
6 purposes.

7 (3) Does not receive or control funds, assets, or property
8 solicited for charitable purposes in this state.

9 (4) Does not employ, procure, or engage any compensated
10 person to solicit, receive, or control funds, assets, or property for
11 charitable purposes.

12 (b) “Fundraising counsel for charitable purposes” does not
13 include any of the following:

14 (1) An attorney, investment counselor, or banker who in the
15 conduct of that person’s profession advises a client when actually
16 engaged in the giving of legal, investment, or financial advice.

17 (2) A trustee as defined in Section 12582 or 12583.

18 (3) A charitable corporation as defined in Section 12582.1, or
19 any employee thereof.

20 (4) A person employed by or under the control of a
21 fundraising counsel for charitable purposes, as defined in
22 subdivision (a).

23 (5) A person, corporation, or other legal entity, engaged as an
24 independent contractor directly by a trustee or a charitable
25 corporation, that prints, reproduces, or distributes written
26 materials prepared by a trustee, a charitable corporation, or any
27 employee thereof, or that performs artistic or graphic services
28 with respect to written materials prepared by a trustee, a
29 charitable corporation, or any employee thereof, provided that
30 the independent contractor does not perform any of the activities
31 described in paragraph (1) of subdivision (a).

32 (6) A person whose total annual gross compensation for
33 performing any activity described in paragraph (1) of subdivision
34 (a) does not exceed twenty-five thousand dollars (\$25,000).

35 (c) A fundraising counsel for charitable purposes shall, prior to
36 managing, advising, counseling, consulting, or preparing material
37 for, or with respect to, the solicitation in this state of funds,
38 assets, or property for charitable purposes, register with the
39 Attorney General’s Registry of Charitable Trusts on a
40 registration form provided by the Attorney General. Renewals of

1 registration shall be filed with the Registry of Charitable Trusts
2 by January 15 of each calendar year in which the fundraising
3 counsel for charitable purposes does business and shall be
4 effective for one year.

5 A registration or renewal fee of two hundred dollars (\$200)
6 shall be required for registration of a fundraising counsel for
7 charitable purposes, and shall be payable by certified or cashier's
8 check to the Attorney General's Registry of Charitable Trusts at
9 the time of registration and renewal. The Attorney General may
10 adjust the annual registration or renewal fee, or means of
11 payment, as needed pursuant to this section. The Attorney
12 General's Registry of Charitable Trusts may grant extensions of
13 time to file annual registration as required, pursuant to
14 subdivision (b) of Section 12586.

15 (d) A fundraising counsel for charitable purposes shall file
16 annually with the Attorney General's Registry of Charitable
17 Trusts on a form provided by the Attorney General, a report
18 listing each person, corporation, unincorporated association, or
19 other legal entity for whom the fundraising counsel has
20 performed any services described in paragraph (1) of subdivision
21 (a), and a statement certifying that the fundraising counsel had a
22 written contract with each listed person, corporation,
23 unincorporated association, or other legal entity that complied
24 with the requirements of subdivision (f).

25 (e) Not less than 10 working days prior to the commencement
26 of the performance of any service for a charitable organization by
27 a fundraising counsel for charitable purposes, or not later than
28 commencement of solicitation for solicitations to aid victims of
29 emergency hardship or disasters, the fundraising counsel shall
30 file with the Attorney General's Registry of Charitable Trusts a
31 notice on a form prescribed by the Attorney General that sets
32 forth all of the following:

33 (1) The name, address, and telephone number of the
34 fundraising counsel for charitable purposes.

35 (2) The name, address, and telephone number of the charitable
36 organization with whom the fundraising counsel has contracted.

37 (3) The projected dates when performance under the contract
38 will commence and terminate.

1 (4) The name, address, and telephone number of the person
2 responsible for directing and supervising the work of the
3 fundraising counsel under the contract.

4 (f) There shall be a written contract between a fundraising
5 counsel for charitable purposes and a charitable organization for
6 each service to be performed by the fundraising counsel for the
7 charitable organization, that shall be signed by the authorized
8 contracting officer for the fundraising counsel and by an official
9 of the charitable organization who is authorized to sign by the
10 organization's governing body. The contract shall be available
11 for inspection by the Attorney General and shall contain all of the
12 following provisions:

13 (1) The legal name and address of the charitable organization
14 as registered with the Registry of Charitable Trusts unless the
15 charitable organization is exempt from registration.

16 (2) A statement of the charitable purpose for which the
17 solicitation campaign is being conducted.

18 (3) A statement of the respective obligations of the fundraising
19 counsel and the charitable organization.

20 (4) A clear statement of the fees and any other form of
21 compensation, including commissions and property, that will be
22 paid to the fundraising counsel.

23 (5) The effective and termination dates of the contract and the
24 date services will commence with respect to solicitation in this
25 state of contributions for a charitable organization.

26 (6) A statement that the fundraising counsel will not at any
27 time solicit funds, assets, or property for charitable purposes,
28 receive or control funds, assets, or property solicited for
29 charitable purposes, or employ, procure, or engage any
30 compensated person to solicit, receive, or control funds, assets, or
31 property for charitable purposes.

32 (7) A statement that the charitable organization exercises
33 control and approval over the content and frequency of any
34 solicitation.

35 (8) A provision that includes all of the following statements:

36 (A) The charitable organization has the right to cancel the
37 contract without cost, penalty, or liability for a period of 10 days
38 following the date on which the contract is executed.

1 (B) The charitable organization may cancel the contract by
2 serving a written notice of cancellation on the fundraising
3 counsel.

4 (C) If mailed, service shall be by certified mail, return receipt
5 requested, and cancellation shall be deemed effective upon the
6 expiration of five calendar days from the date of mailing.

7 (9) A provision that includes all of the following statements:

8 (A) Following the initial 10-day cancellation period, the
9 charitable organization may terminate the contract by giving 30
10 days' written notice.

11 (B) If mailed, service of the notice shall be by certified mail,
12 return receipt requested, and shall be deemed effective upon the
13 expiration of five calendar days from the date of mailing.

14 (C) In the event of termination under this subdivision, the
15 charitable organization shall be liable for services provided by
16 the fundraising counsel to the effective date of the termination.

17 (10) Any other information required by the regulations of the
18 Attorney General.

19 (g) It shall be unlawful for any fundraising counsel for
20 charitable purposes to manage, advise, counsel, consult, or
21 prepare material for, or with respect to, the solicitation in this
22 state of funds, assets, or property for charitable purposes unless
23 the fundraising counsel for charitable purposes has complied
24 with the registration or annual renewal and financial reporting
25 requirements of this article.

26 (h) A fundraising counsel for charitable purposes is subject to
27 the Attorney General's supervision and enforcement to the same
28 extent as a trustee for charitable purposes under this article.

29 (i) If any provision of this section or the application thereof to
30 any person or circumstances is held invalid, that invalidity shall
31 not affect other provisions or application of this section which
32 can be given effect without the invalid provision or application,
33 and to this end the provisions of this section are severable.

34 ~~SEC. 11.~~

35 *SEC. 20.* Section 12599.2 of the Government Code is
36 amended to read:

37 12599.2. (a) "Commercial coventurer" is defined as any
38 person who, for profit, is regularly and primarily engaged in
39 trade or commerce other than in connection with the raising of
40 funds, assets, or property for charitable organizations or

1 charitable purposes, and who represents to the public that the
2 purchase or use of any goods, services, entertainment, or any
3 other thing of value will benefit a charitable organization or will
4 be used for a charitable purpose.

5 (b) A commercial coventurer is a trustee as defined in Section
6 12582. Notwithstanding the requirements of Sections 12585 and
7 12586, a commercial coventurer is not required to register or file
8 periodic reports with the Attorney General provided that the
9 commercial coventurer:

10 (1) Has a written contract with a trustee or charitable
11 corporation subject to this article, signed by two officers of the
12 trustee or charitable corporation, prior to representing to the
13 public that the purchase or use of any goods, services,
14 entertainment, or any other thing of value will benefit the trustee
15 or charitable corporation or will be used for a charitable purpose.

16 (2) Within 90 days after commencement of those
17 representations, and at the end of each successive 90-day period
18 during which the representations are made, transfers to that
19 trustee or charitable corporation subject to this article all funds,
20 assets, or property received as a result of the representations.

21 (3) Provides in conjunction with each transfer required by
22 paragraph (2) a written accounting to the trustee or charitable
23 corporation subject to this article of all funds, assets, or property
24 received sufficient to enable the trustee or charitable corporation
25 (A) to determine that representations made to the public on its
26 behalf have been adhered to accurately and completely, and (B)
27 to prepare its periodic report filed with the Attorney General
28 pursuant to Section 12586.

29 (c) A commercial coventurer that does not meet the
30 requirements of paragraphs (1), (2), and (3) of subdivision (b)
31 shall register and report to the Attorney General on forms
32 required by the Attorney General. An annual registration or
33 renewal fee of two hundred dollars (\$200) shall be required for
34 registration or renewal of registration of a commercial
35 coventurer, and shall be payable by certified or cashier's check to
36 the Attorney General's Registry of Charitable Trusts at the time
37 of registration or renewal. The Attorney General may adjust the
38 annual registration or renewal fee, or means of payment, as
39 needed pursuant to this section.

1 *SEC. 21. Section 31000.6 of the Government Code is*
2 *amended to read:*

3 31000.6. (a) Upon request of the assessor or the sheriff of the
4 county, the board of supervisors shall contract with and employ
5 legal counsel to assist the assessor or the sheriff in the
6 performance of his or her duties in any case where the county
7 counsel or the district attorney would have a conflict of interest
8 in representing the assessor or the sheriff.

9 (b) In the event that the board of supervisors does not concur
10 with the assessor or the sheriff that a conflict of interest exists,
11 the assessor or the sheriff, after giving notice to the county
12 counsel or the district attorney, may initiate an ex parte
13 proceeding before the presiding judge of the superior court. The
14 county counsel or district attorney may file an affidavit in the
15 proceeding in opposition to, or in support of, the assessor's or the
16 sheriff's position.

17 (c) The presiding superior court judge that determines in any
18 ex parte proceeding that a conflict actually exists, must, if
19 requested by one of the parties, also rule whether representation
20 by the county counsel or district attorney through the creation of
21 an "ethical wall" is appropriate. The factors to be considered in
22 this determination of whether an "ethical wall" should be created
23 are: (1) equal representation, (2) level of support, (3) access to
24 resources, (4) zealous representation, or (5) any other
25 consideration that relates to proper representation.

26 (d) If a court determines that the action brought by the
27 assessor or sheriff is frivolous and in bad faith, the assessor's
28 office or sheriff's office shall pay their own legal costs and all
29 costs incurred in the action by the opposing party. As used in this
30 section, "bad faith" and "frivolous" have the meaning given in
31 Section 128.5 of the Code of Civil Procedure.

32 (e) If the presiding judge determines that a conflict of interest
33 does exist, and that representation by the county counsel or
34 district attorney through the creation of an ethical wall is
35 inappropriate, the board of supervisors shall immediately employ
36 legal counsel to assist the assessor or the sheriff.

37 (f) *This section shall also apply to any matter brought after an*
38 *assessor or sheriff leaves office under the circumstances that if*
39 *the matter had arisen or been discovered while the official was*

1 *still in office, he or she would have been authorized under this*
2 *section to request the appointment of independent counsel.*

3 (g) As used in this section, “conflict of interest” means a
4 conflict of interest as defined in Rule 3-310 of the Rules of
5 Professional Conduct of the State Bar of California, as construed
6 for public attorneys.

7 ~~SEC. 12.~~

8 SEC. 22. Section 959.1 of the Penal Code is amended to read:

9 959.1. (a) Notwithstanding Sections 740, 806, 949, and 959
10 or any other law to the contrary, a criminal prosecution may be
11 commenced by filing an accusatory pleading in electronic form
12 with the magistrate or in a court having authority to receive it.

13 (b) As used in this section, accusatory pleadings include, but
14 are not limited to, the complaint, the information, and the
15 indictment.

16 (c) A magistrate or court is authorized to receive and file an
17 accusatory pleading in electronic form if all of the following
18 conditions are met:

19 (1) The accusatory pleading is issued in the name of, and
20 transmitted by, a public prosecutor or law enforcement agency
21 filing pursuant to Chapter 5c (commencing with Section 853.5)
22 or Chapter 5d (commencing with Section 853.9), or by a clerk of
23 the court with respect to complaints issued for the offenses of
24 failure to appear, pay a fine, or comply with an order of the court.

25 (2) The magistrate or court has the facility to electronically
26 store the accusatory pleading for the statutory period of record
27 retention.

28 (3) The magistrate or court has the ability to reproduce the
29 accusatory pleading in physical form upon demand and payment
30 of any costs involved.

31 An accusatory pleading shall be deemed to have been filed
32 when it has been received by the magistrate or court.

33 When transmitted in electronic form, the accusatory pleading
34 shall be exempt from any requirement that it be subscribed by a
35 natural person. It is sufficient to satisfy any requirement that an
36 accusatory pleading, or any part of it, be sworn to before an
37 officer entitled to administer oaths, if the pleading, or any part of
38 it, was in fact sworn to and the electronic form indicates which
39 parts of the pleading were sworn to and the name of the officer
40 who administered the oath.

(d) Notwithstanding any other law, a notice to appear issued on a form approved by the Judicial Council may be received and filed by a court in electronic form, if the following conditions are met:

(1) The notice to appear is issued and transmitted by a law enforcement agency prosecuting pursuant to Chapter 5c (commencing with Section 853.5) or Chapter 5d (commencing with Section 853.9) of Title 3 of Part 2 of this code, or Chapter 2 (commencing with Section 40300) of Division 17 of the Vehicle Code.

(2) The court has all of the following:

(A) The ability to receive the notice to appear in electronic format.

(B) The facility to electronically store an electronic copy and the data elements of the notice to appear for the statutory period of record retention.

(C) The ability to reproduce the electronic copy of the notice to appear and those data elements in printed form upon demand and payment of any costs involved.

(3) The issuing agency has the ability to reproduce the notice to appear in physical form upon demand and payment of any costs involved.

(e) A notice to appear that is received under subdivision (d) is deemed to have been filed when it has been accepted by the court and is in the form approved by the Judicial Council.

(f) If transmitted in electronic form, the notice to appear is deemed to have been signed by the defendant if it includes a digitized facsimile of the defendant's signature on the notice to appear. A notice to appear filed electronically under subdivision (d) need not be subscribed by the citing officer. An electronically submitted notice to appear need not be verified by the citing officer with a declaration under penalty of perjury if the electronic form indicates which parts of the notice are verified by that declaration and the name of the officer making the declaration.

SEC. 23. Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 360 or 366.26, the court shall retain jurisdiction over the child until the child is

1 adopted or the legal guardianship is established, except as
2 provided for in Section 366.29. The status of the child shall be
3 reviewed every six months to ensure that the adoption or legal
4 guardianship is completed as expeditiously as possible. When the
5 adoption of the child has been granted, the court shall terminate
6 its jurisdiction over the child. Following establishment of a legal
7 guardianship, the court may continue jurisdiction over the child
8 as a dependent child of the juvenile court or may terminate its
9 dependency jurisdiction and retain jurisdiction over the child as a
10 ward of the legal guardianship, as authorized by Section 366.4.
11 If, however, a relative of the child is appointed the legal guardian
12 of the child and the child has been placed with the relative for at
13 least 12 months, the court shall, except if the relative guardian
14 objects, or upon a finding of exceptional circumstances,
15 terminate its dependency jurisdiction and retain jurisdiction over
16 the child as a ward of the guardianship, as authorized by Section
17 366.4. Following a termination of parental rights, the parent or
18 parents shall not be a party to, or receive notice of, any
19 subsequent proceedings regarding the child.

20 (b) If the court has dismissed dependency jurisdiction
21 following the establishment of a legal guardianship, or no
22 dependency jurisdiction attached because of the granting of a
23 legal guardianship pursuant to Section 360, and the legal
24 guardianship is subsequently revoked or otherwise terminated,
25 the county department of social services or welfare department
26 shall notify the juvenile court of this fact. The court may vacate
27 its previous order dismissing dependency jurisdiction over the
28 child.

29 Notwithstanding Section 1601 of the Probate Code, the
30 proceedings to terminate a legal guardianship that has been
31 granted pursuant to Section 360 or 366.26 shall be held in the
32 juvenile court, unless the termination is due to the emancipation
33 or adoption of the child. Prior to the hearing on a petition to
34 terminate legal guardianship pursuant to this paragraph, the court
35 shall order the county department of social services or welfare
36 department to prepare a report, for the court's consideration, that
37 shall include an evaluation of whether the child could safely
38 remain in the legal guardian's home, without terminating the
39 legal guardianship, if services were provided to the child or legal
40 guardian. If applicable, the report shall also identify

1 recommended services to maintain the legal guardianship and set
2 forth a plan for providing those services. If the petition to
3 terminate legal guardianship is granted, the juvenile court may
4 resume dependency jurisdiction over the child, and may order the
5 county department of social services or welfare department to
6 develop a new permanent plan, which shall be presented to the
7 court within 60 days of the termination. If no dependency
8 jurisdiction has attached, the social worker shall make any
9 investigation he or she deems necessary to determine whether the
10 child may be within the jurisdiction of the juvenile court, as
11 provided in Section 328.

12 Unless the parental rights of the child's parent or parents have
13 been terminated, they shall be notified that the legal guardianship
14 has been revoked or terminated and shall be entitled to
15 participate in the new permanency planning hearing. The court
16 shall try to place the child in another permanent placement. At
17 the hearing, the parents may be considered as custodians but the
18 child shall not be returned to the parent or parents unless they
19 prove, by a preponderance of the evidence, that reunification is
20 the best alternative for the child. The court may, if it is in the best
21 interests of the child, order that reunification services again be
22 provided to the parent or parents.

23 (c) If, following the establishment of a legal guardianship, the
24 county welfare department becomes aware of changed
25 circumstances that indicate adoption may be an appropriate plan
26 for the child, the department shall so notify the court. The court
27 may vacate its previous order dismissing dependency jurisdiction
28 over the child and order that a hearing be held pursuant to
29 Section 366.26 to determine whether adoption or continued legal
30 guardianship is the most appropriate plan for the child. The
31 hearing shall be held no later than 120 days from the date of the
32 order. If the court orders that a hearing shall be held pursuant to
33 Section 366.26, the court shall direct the agency supervising the
34 child and the licensed county adoption agency, or the State
35 Department of Social Services if it is acting as an adoption
36 agency in counties that are not served by a county adoption
37 agency, to prepare an assessment under subdivision (b) of
38 Section 366.22.

39 (d) If the child is in a placement other than the home of a legal
40 guardian and jurisdiction has not been dismissed, the status of the

1 child shall be reviewed at least every six months. The review of
2 the status of a child for whom the court has ordered parental
3 rights terminated and who has been ordered placed for adoption
4 shall be conducted by the court. The review of the status of a
5 child for whom the court has not ordered parental rights
6 terminated and who has not been ordered placed for adoption
7 may be conducted by the court or an appropriate local agency.
8 The court shall conduct the review under the following
9 circumstances:

10 (1) Upon the request of the child's parents or legal guardians.

11 (2) Upon the request of the child.

12 (3) It has been 12 months since a hearing held pursuant to
13 Section 366.26 or an order that the child remain in long-term
14 foster care pursuant to Section 366.21, 366.22, 366.26, or
15 subdivision (g).

16 (4) It has been 12 months since a review was conducted by the
17 court.

18 The court shall determine whether or not reasonable efforts to
19 make and finalize a permanent placement for the child have been
20 made.

21 (e) Except as provided in subdivision (f), at the review held
22 every six months pursuant to subdivision (d), the reviewing body
23 shall inquire about the progress being made to provide a
24 permanent home for the child, shall consider the safety of the
25 child, and shall determine all of the following:

26 (1) The continuing necessity for and appropriateness of the
27 placement.

28 (2) Identification of individuals other than the child's siblings
29 who are important to a child who is 10 years of age or older and
30 has been in out-of-home placement for six months or longer, and
31 actions necessary to maintain the child's relationship with those
32 individuals, provided that those relationships are in the best
33 interest of the child. The social worker shall ask every child who
34 is 10 years of age or older and who has been in out-of-home
35 placement for six months or longer to identify individuals other
36 than the child's siblings who are important to the child, and may
37 ask any other child to provide that information, as appropriate.
38 The social worker shall make efforts to identify other individuals
39 who are important to the child, consistent with the child's best
40 interests.

1 (3) The continuing appropriateness and extent of compliance
2 with the permanent plan for the child, including efforts to
3 maintain relationships between a child who is 10 years of age or
4 older and who has been in out-of-home placement for six months
5 or longer and individuals who are important to the child and
6 efforts to identify a prospective adoptive parent or legal guardian,
7 including, but not limited to, child-specific recruitment efforts
8 and listing on an adoption exchange.

9 (4) The extent of the agency's compliance with the child
10 welfare services case plan in making reasonable efforts to return
11 the child to a safe home and to complete whatever steps are
12 necessary to finalize the permanent placement of the child.

13 (5) Whether there should be any limitation on the right of the
14 parent or guardian to make educational decisions for the child.
15 That limitation shall be specifically addressed in the court order
16 and may not exceed what is necessary to protect the child. If the
17 court specifically limits the right of the parent or guardian to
18 make educational decisions for the child, the court shall at the
19 same time appoint a responsible adult to make educational
20 decisions for the child pursuant to Section 361.

21 (6) The adequacy of services provided to the child. The court
22 shall consider the progress in providing the information and
23 documents to the child, as described in Section 391. The court
24 shall also consider the need for, and progress in providing, the
25 assistance and services described in paragraphs (3) and (4) of
26 subdivision (b) of Section 391.

27 (7) The extent of progress the parents or legal guardians have
28 made toward alleviating or mitigating the causes necessitating
29 placement in foster care.

30 (8) The likely date by which the child may be returned to and
31 safely maintained in the home, placed for adoption, legal
32 guardianship, or in another planned permanent living
33 arrangement.

34 (9) Whether the child has any siblings under the court's
35 jurisdiction, and, if any siblings exist, all of the following:

36 (A) The nature of the relationship between the child and his or
37 her siblings.

38 (B) The appropriateness of developing or maintaining the
39 sibling relationships pursuant to Section 16002.

1 (C) If the siblings are not placed together in the same home,
2 why the siblings are not placed together and what efforts are
3 being made to place the siblings together, or why those efforts
4 are not appropriate.

5 (D) If the siblings are not placed together, the frequency and
6 nature of the visits between siblings.

7 (E) The impact of the sibling relationships on the child's
8 placement and planning for legal permanence.

9 The factors the court may consider as indicators of the nature
10 of the child's sibling relationships include, but are not limited to,
11 whether the siblings were raised together in the same home,
12 whether the siblings have shared significant common experiences
13 or have existing close and strong bonds, whether either sibling
14 expresses a desire to visit or live with his or her sibling, as
15 applicable, and whether ongoing contact is in the child's best
16 emotional interests.

17 (10) For a child who is 16 years of age or older, the services
18 needed to assist the child to make the transition from foster care
19 to independent living.

20 The reviewing body shall determine whether or not reasonable
21 efforts to make and finalize a permanent placement for the child
22 have been made.

23 Each licensed foster family agency shall submit reports for
24 each child in its care, custody, and control to the court
25 concerning the continuing appropriateness and extent of
26 compliance with the child's permanent plan, the extent of
27 compliance with the case plan, and the type and adequacy of
28 services provided to the child.

29 Unless their parental rights have been permanently terminated,
30 the parent or parents of the child are entitled to receive notice of,
31 and participate in, those hearings. It shall be presumed that
32 continued care is in the best interests of the child, unless the
33 parent or parents prove, by a preponderance of the evidence, that
34 further efforts at reunification are the best alternative for the
35 child. In those cases, the court may order that further
36 reunification services to return the child to a safe home
37 environment be provided to the parent or parents for a period not
38 to exceed six months.

39 (f) At the review conducted by the court and held at least
40 every six months, regarding a child for whom the court has

1 ordered parental rights terminated and who has been ordered
2 placed for adoption, the county welfare department shall prepare
3 and present to the court a report describing the following:

4 (1) The child's present placement.

5 (2) The child's current physical, mental, emotional, and
6 educational status.

7 (3) If the child has not been placed with a prospective adoptive
8 parent or guardian, identification of individuals, other than the
9 child's siblings, who are important to the child and actions
10 necessary to maintain the child's relationship with those
11 individuals, provided that those relationships are in the best
12 interest of the child. The agency shall ask every child who is 10
13 years of age or older to identify any individuals who are
14 important to him or her, consistent with the child's best interest,
15 and may ask any child who is younger than 10 years of age to
16 provide that information as appropriate. The agency shall make
17 efforts to identify other individuals who are important to the
18 child.

19 (4) Whether the child has been placed with a prospective
20 adoptive parent or parents.

21 (5) Whether an adoptive placement agreement has been signed
22 and filed.

23 (6) If the child has not been placed with a prospective adoptive
24 parent or parents, the efforts made to identify an appropriate
25 prospective adoptive parent or legal guardian, including, but not
26 limited to, child-specific recruitment efforts and listing on an
27 adoption exchange.

28 (7) Whether the final adoption order should include provisions
29 for postadoptive sibling contact pursuant to Section 366.29.

30 (8) The progress of the search for an adoptive placement if one
31 has not been identified.

32 (9) Any impediments to the adoption or the adoptive
33 placement.

34 (10) The anticipated date by which the child will be adopted,
35 or placed in an adoptive home.

36 (11) The anticipated date by which an adoptive placement
37 agreement will be signed.

38 (12) Recommendations for court orders that will assist in the
39 placement of the child for adoption or in the finalization of the
40 adoption.

1 The court shall determine whether or not reasonable efforts to
2 make and finalize a permanent placement for the child have been
3 made.

4 The court shall make appropriate orders to protect the stability
5 of the child and to facilitate and expedite the permanent
6 placement and adoption of the child.

7 (g) At the review held pursuant to subdivision (d) for a child in
8 long-term foster care, the court shall consider all permanency
9 planning options for the child including whether the child should
10 be returned to the home of the parent, placed for adoption, or
11 appointed a legal guardian, or, if compelling reasons exist for
12 finding that none of the foregoing options are in the best interest
13 of the child, whether the child should be placed in another
14 planned permanent living arrangement. The court shall order that
15 a hearing be held pursuant to Section 366.26 unless it determines
16 by clear and convincing evidence, that there is a compelling
17 reason for determining that a hearing held pursuant to Section
18 366.26 is not in the best interest of the child because the child is
19 being returned to the home of the parent, the child is not a proper
20 subject for adoption, or no one is willing to accept legal
21 guardianship. If the licensed county adoption agency, or the
22 department when it is acting as an adoption agency in counties
23 that are not served by a county adoption agency, has determined
24 it is unlikely that the child will be adopted or one of the
25 conditions described in paragraph (1) of subdivision (c) of
26 Section 366.26 applies, that fact shall constitute a compelling
27 reason for purposes of this subdivision. Only upon that
28 determination may the court order that the child remain in foster
29 care, without holding a hearing pursuant to Section 366.26.

30 (h) If, as authorized by subdivision (g), the court orders a
31 hearing pursuant to Section 366.26, the court shall direct the
32 agency supervising the child and the licensed county adoption
33 agency, or the State Department of Social Services when it is
34 acting as an adoption agency in counties that are not served by a
35 county adoption agency, to prepare an assessment as provided for
36 in subdivision (i) of Section 366.21 or subdivision (b) of Section
37 366.22. A hearing held pursuant to Section 366.26 shall be held
38 no later than 120 days from the date of the 12-month review at
39 which it is ordered, and at that hearing the court shall determine

1 whether adoption, legal guardianship, or long-term foster care is
2 the most appropriate plan for the child.

3 (i) The implementation and operation of the amendments to
4 subdivision (e) enacted at the 2005-06 Regular Session shall be
5 subject to appropriation through the budget process and by phase,
6 as provided in Section 366.35.

7 (j) *The reviews conducted pursuant to subdivision (a) or (d)*
8 *may be conducted earlier than every six months if the court*
9 *determines that an earlier review is in the best interests of the*
10 *child or as courts rules prescribe.*

11 ~~SEC. 13.~~

12 SEC. 24. Section 15657.03 of the Welfare and Institutions
13 Code is amended to read:

14 15657.03. (a) An elder or dependent adult who has suffered
15 abuse as defined in Section 15610.07 may seek protective orders
16 as provided in this section.

17 (b) For the purposes of this section, “protective order” means
18 an order that includes any of the following restraining orders,
19 whether issued ex parte, after notice and hearing, or in a
20 judgment:

21 (1) An order enjoining a party from abusing, intimidating,
22 molesting, attacking, striking, stalking, threatening, sexually
23 assaulting, battering, harassing, telephoning, including, but not
24 limited to, annoying telephone calls as described in Section 653m
25 of the Penal Code, destroying personal property, contacting,
26 either directly or indirectly, by mail or otherwise, or coming
27 within a specified distance of, or disturbing the peace of the
28 petitioner.

29 (2) An order excluding a party from the petitioner’s residence
30 or dwelling, except that this order shall not be issued if legal or
31 equitable title to, or lease of, the residence or dwelling is in the
32 sole name of the party to be excluded, or is in the name of the
33 party to be excluded and any other party besides the petitioner.

34 (3) An order enjoining a party from specified behavior that the
35 court determines is necessary to effectuate orders described in
36 paragraph (1) or (2).

37 (c) An order may be issued under this section, with or without
38 notice, to restrain any person for the purpose of preventing a
39 recurrence of abuse, if an affidavit shows, to the satisfaction of

1 the court, reasonable proof of a past act or acts of abuse of the
2 petitioning elder or dependent adult.

3 (d) (1) Upon filing a petition for protective orders under this
4 section, the petitioner may obtain a temporary restraining order
5 in accordance with Section 527 of the Code of Civil Procedure,
6 except to the extent this section provides a rule that is
7 inconsistent. The temporary restraining order may include any of
8 the protective orders described in subdivision (b). However, the
9 court may issue an ex parte order excluding a party from the
10 petitioner's residence or dwelling only on a showing of all of the
11 following:

12 (A) Facts sufficient for the court to ascertain that the party
13 who will stay in the dwelling has a right under color of law to
14 possession of the premises.

15 (B) That the party to be excluded has assaulted or threatens to
16 assault the petitioner.

17 (C) That physical or emotional harm would otherwise result to
18 the petitioner.

19 (2) If a temporary restraining order is granted without notice,
20 the matter shall be made returnable on an order requiring cause to
21 be shown why a permanent order should not be granted, on the
22 earliest day that the business of the court will permit, but not later
23 than 20 days or, if good cause appears to the court, 25 days from
24 the date the temporary restraining order is granted, unless the
25 order is otherwise modified or terminated by the court.

26 (e) The court may issue, upon notice and a hearing, any of the
27 orders set forth in subdivision (b). The court may issue, after
28 notice and hearing, an order excluding a person from a residence
29 or dwelling if the court finds that physical or emotional harm
30 would otherwise result to the other party.

31 (f) In the discretion of the court, an order issued after notice
32 and a hearing under this section may have a duration of not more
33 than three years, subject to termination or modification by further
34 order of the court either on written stipulation filed with the court
35 or on the motion of a party. These orders may be renewed upon
36 the request of a party, either for three years or permanently,
37 without a showing of any further abuse since the issuance of the
38 original order, subject to termination or modification by further
39 order of the court either on written stipulation filed with the court
40 or on the motion of a party. The failure to state the expiration

1 date on the face of the form creates an order with a duration of
2 three years from the date of issuance.

3 (g) Upon the filing of a petition for protective orders under
4 this section, the respondent shall be personally served with a
5 copy of the petition, notice of the hearing or order to show cause,
6 temporary restraining order, if any, and any affidavits in support
7 of the petition. Service shall be made at least five days before the
8 hearing. The court may, on motion of the petitioner or on its own
9 motion, shorten the time for service on the respondent.

10 (h) The court may, upon the filing of an affidavit by the
11 applicant that the respondent could not be served within the time
12 required by statute, reissue an order previously issued and
13 dissolved by the court for failure to serve the respondent. The
14 reissued order shall be made returnable on the earliest day that
15 the business of the court will permit, but not later than 20 days
16 or, if good cause appears to the court, 25 days from the date of
17 reissuance. The reissued order shall state on its face the date of
18 expiration of the order.

19 (i) (1) If the person named in a temporary restraining order is
20 personally served with the order and notice of hearing with
21 respect to a restraining order or protective order based thereon,
22 but the person does not appear at the hearing, either personally or
23 by counsel, and the terms and conditions of the restraining order
24 or protective order are identical to the temporary restraining
25 order, except for the duration of the order, then the restraining
26 order or protective order may be served on the person by
27 first-class mail sent to that person at the most current address for
28 the person available to the court.

29 (2) The judicial form for orders issued pursuant to this
30 subdivision shall contain a statement in substantially the
31 following form:

32 “NO ADDITIONAL PROOF OF SERVICE IS REQUIRED IF
33 THE FACE OF THIS FORM INDICATES THAT BOTH
34 PARTIES WERE PERSONALLY PRESENT AT THE
35 HEARING WHERE THE ORDER WAS ISSUED. IF YOU
36 HAVE BEEN PERSONALLY SERVED WITH A
37 TEMPORARY RESTRAINING ORDER OR EMERGENCY
38 PROTECTIVE ORDER AND NOTICE OF HEARING, BUT
39 YOU DO NOT APPEAR AT THE HEARING EITHER IN
40 PERSON OR BY COUNSEL, AND A RESTRAINING ORDER

1 OR PROTECTIVE ORDER IS ISSUED AT THE HEARING
2 THAT DOES NOT DIFFER FROM THE PRIOR
3 TEMPORARY RESTRAINING ORDER OR EMERGENCY
4 PROTECTIVE ORDER, A COPY OF THE ORDER WILL BE
5 SERVED UPON YOU BY MAIL AT THE FOLLOWING
6 ADDRESS _____. IF THAT ADDRESS IS NOT CORRECT OR
7 YOU WISH TO VERIFY THAT THE TEMPORARY OR
8 EMERGENCY ORDER WAS MADE PERMANENT
9 WITHOUT SUBSTANTIVE CHANGE, CALL THE CLERK
10 OF THE COURT AT _____.”

11 (j) (1) The court shall order the petitioner or the attorney for
12 the petitioner to deliver, or the clerk of the court to mail, a copy
13 of an order issued under this section, or a reissuance, extension,
14 modification, or termination of the order, and any subsequent
15 proof of service, by the close of the business day on which the
16 order, reissuance, extension, modification, or termination was
17 made, to each local law enforcement agency designated by the
18 petitioner or the attorney for the petitioner having jurisdiction
19 over the residence of the petitioner, and to any additional law
20 enforcement agencies within the court’s discretion as are
21 requested by the petitioner. Each appropriate law enforcement
22 agency shall make available information as to the existence and
23 current status of these orders to law enforcement officers
24 responding to the scene of reported abuse.

25 (2) An order issued under this section shall, on request of the
26 petitioner, be served on the respondent, whether or not the
27 respondent has been taken into custody, by any law enforcement
28 officer who is present at the scene of reported abuse involving
29 the parties to the proceeding. The petitioner shall provide the
30 officer with an endorsed copy of the order and a proof of service,
31 which the officer shall complete and send to the issuing court.

32 (3) Upon receiving information at the scene of an incident of
33 abuse that a protective order has been issued under this section,
34 or that a person who has been taken into custody is the
35 respondent to that order, if the protected person cannot produce
36 an endorsed copy of the order, a law enforcement officer shall
37 immediately attempt to verify the existence of the order.

38 (4) If the law enforcement officer determines that a protective
39 order has been issued, but not served, the officer shall
40 immediately notify the respondent of the terms of the order and

1 where a written copy of the order can be obtained, and the officer
2 shall at that time also enforce the order. The law enforcement
3 officer's verbal notice of the terms of the order shall constitute
4 service of the order and is sufficient notice for the purposes of
5 this section and for the purposes of Section 273.6 of the Penal
6 Code.

7 (k) Nothing in this section shall preclude either party from
8 representation by private counsel or from appearing on the
9 party's own behalf.

10 (l) There is no filing fee for a petition, response, or paper
11 seeking the reissuance, modification, or enforcement of a
12 protective order filed in a proceeding brought pursuant to this
13 section.

14 (m) (1) Fees otherwise payable by a petitioner to a law
15 enforcement agency for serving an order issued under this section
16 may be waived in any case in which the petitioner has requested
17 a fee waiver on the initiating petition and has filed a declaration
18 that demonstrates, to the satisfaction of the court, the financial
19 need of the petitioner for the fee waiver. The declaration required
20 by this subdivision shall be on one of the following forms:

21 (A) The form formulated and adopted by the Judicial Council
22 for litigants proceeding in forma pauperis pursuant to Section
23 68511.3 of the Government Code, but the petitioner is not subject
24 to any other requirements of litigants proceeding in forma
25 pauperis.

26 (B) Any other form that the Judicial Council may adopt for
27 this purpose pursuant to subdivision (r).

28 (2) In conjunction with a hearing pursuant to this section, the
29 court may make an order for the waiver of fees otherwise payable
30 by the petitioner to a law enforcement agency for serving an
31 order issued under this section.

32 (n) The prevailing party in any action brought under this
33 section may be awarded court costs and attorney's fees, if any.

34 (o) (1) An order issued pursuant to this section shall prohibit
35 the person subject to it from owning, possessing, purchasing,
36 receiving, or attempting to purchase or receive, a firearm.

37 (2) Paragraph (1) shall not apply to a case consisting solely of
38 financial abuse unaccompanied by force, threat, harassment,
39 intimidation, or any other form of abuse.

(3) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(4) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm while the protective order is in effect is punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.

(p) Any willful disobedience of any temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(q) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code, by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, or by Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a petitioner's right to use other existing civil remedies.

(r) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

~~SEC. 14.~~

SEC. 25. It is the intent of the Legislature that effective self-help services be made available to assist self-represented parties in civil matters in every county. The Administrative Office of the Courts shall expend all funds allocated for services to assist self-represented litigants so as to provide services in all civil cases in proportion to the number of self-represented parties in each county. In the allocation of funds for new or augmented services, priority shall be given to rural and other underserved areas and to the provision of court-based services, supervised by an attorney, and coordinated with other legal service providers in the community, including, but not limited to, qualified legal service providers, pro bono legal service projects, and local bar association referral services, allowing assessment of the legal needs and provision of referral information, as appropriate.

SEC. 26. *If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be*

- 1 *made pursuant to Part 7 (commencing with Section 17500) of*
- 2 *Division 4 of Title 2 of the Government Code.*

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